

FEBRUARY 23, 2005

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February 23, 2005 LB 1-3, 11, 15, 16-18, 20, 33, 37, 44, 52
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261, 329, 334, 383, 533

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good morning. Welcome to the George W. Norris Legislative Chamber. Our chaplain of the day is Pastor Kim Cottingham, from St. Paul's Lutheran Church, Uehling, Nebraska. That's Senator Janssen's district. Pastor.

PASTOR COTTINGHAM: (Prayer offered.)

SENATOR CUDABACK: Thank you, Pastor Cottingham, for being with us this morning. Appreciate you being here. I call the thirty-second day, Ninety-Ninth Legislature, First Session, to order. Senators, please check in. Record please, Mr. Clerk.

CLERK: I have a quorum present, Mr. President.

SENATOR CUDABACK: Do you have any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR CUDABACK: Messages, reports, or announcements?

CLERK: Mr. President, Enrollment and Review reports they've examined and engrossed LB 1, LB 2, LB 3, LB 11, LB 15, LB 16, LB 17, LB 18, LB 20, LB 33, LB 37, LB 52, LB 53, LB 59, LB 61, LB 80, LB 83, LB 88, LB 118, LB 169, LB 216, LB 261, LB 329, LB 334, and LB 383, all reported correctly engrossed. Hearing notice from Appropriations Committee, signed by Senator Pederson. An amendment to be printed to LB 533 by Senator Beutler. Priority bill designation, LB 44, by Senator Redfield. And a confirmation report from the Education Committee. That's all that I had, Mr. President. (Legislative Journal pages 585-586.)

SENATOR CUDABACK: Thank you, Mr. Clerk. (Visitor introduced.) We now go to General File, 2005 senator priority bills. Mr. Clerk, LB 66.

CLERK: LB 66, Mr. President, introduced by Senator Don Pederson. (Read title.) The bill was introduced on January 6, referred to the Revenue Committee, advanced to General File. I

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do have committee amendments pending. (AM0296, Legislative Journal page 456.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Members, it's a little bit noisy, so if you'd show respect for the speaker, we'd appreciate it. Senator Pederson, to open on LB 66.

SENATOR D. PEDERSON: Thank you, Mr. President. Members of the Legislature, I'd like to refresh the recollection of those of you who were here in 2003, and to bring up to date those of you who were not here in 2003. At that point, we had LR 2CA, which was a proposed constitutional amendment for historic preservation. That proposal that we had was passed by a vote of 44 to 1 by this Legislature, was placed on the November ballot this last year, and was then passed by the voters by 58 percent. So what we have today is the bill that implements the constitutional amendment. LB 66 is the proposed implementation language, pursuant to Article VIII, Section 2 of the Constitution of the state of Nebraska. And it provides for an increase...the increased value of real property resulting from improvements designed primarily for the purpose of renovating, rehabilitating, or preserving historically significant real property, may be, in whole or in part, exempt from taxation. So recall now, we're talking just strictly about the improvements that are placed upon this property. LB 66 incorporates sections of the South Dakota and Illinois laws into our law, which, we thought these were the two oldest and most successful programs to allow owners to restore and rehabilitate their property without penalty. They do so by temporarily freezing the historic property's assessed valuation for a set period of years, once specific conditions are met. LB 66 assists landmark protection, neighborhoods revitalization, and economic development, by promoting the recognition and designation of historic buildings and areas throughout the state, and by creating incentives to upgrade historic properties and districts. To do so requires several conditions to be met, and they include: In order to obtain the assessed freeze, the owner must first obtain a determination from the Nebraska State Historic Preservation Officer that the property qualifies as an historic building. The preliminary application must include information regarding the address, the location, the map,

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photographs, et cetera, of the property. And the State Historic Preservation Officer determines the length of the rehabilitation period, which shall not exceed two years, and the certificate identifies the rehabilitation period. Upon completion of the rehabilitation period, the owner shall provide information to the State Historic Preservation Officer to obtain a final certificate of rehabilitation. If this meets the standards of rehabilitation, a final certificate is issued to the owner, and a copy is transmitted to the county assessor. The cost of rehabilitation is equal...must be equal to or at least 25 percent of the assessed value of the certified assessed property. So in other words, it can't be a minor improvement; it has to be at least 25 percent of the value of the property that is being in the improvement. Commencing January 1 of 2006, for all real property for which a final certificate of rehabilitation has been issued, the valuation for proposed...for the purposes of assessment shall not exceed the base year valuation for eight years following the issuance of the certificate of rehabilitation. In this case, we mean the base year of the value is the value of the property as of the time that the certificate is issued. For four years following the expiration of the eight-year period, valuation for the purpose of assessment shall be, for the first year, the base year valuation plus 25 percent of the difference in the base year valuation and the current year valuation; for the second year, the base year valuation plus 50 percent of the difference; for the third year, 75 percent; and for the fourth year, the actual current value of the property. If during the eight-year period and the four-year period specified the State Historic Preservation Officer determines that the real property for which the certificate of rehabilitation has been issued has not met the standards set forth, that officer shall revoke the final certificate of rehabilitation issued by written notice to the owner, and a copy of the revocation shall be transmitted to the county assessor. I would like to inform you that we have worked with the Property Tax Administrator, the State Historic Officers, and NACO, to ensure the proper guidelines and clarifications for the county assessors that have been included in this legislation. As you know, the State Tax Assessor covers a number of the properties in the state, and is very informed on the issues of how it's necessary to keep continuity with the

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Assessor's Office, and has been very cooperative and helpful in developing this. We've also had many lengthy meetings in my office with George Kilpatrick and Cathy Lang, the State Historical Society, and others, to ensure that the proper language would be contained in the committee amendment. We attempted to address as many concerns or questions as we could anticipate that the county assessors would have in the future concerning this matter. So the committee does...the committee amendment does become the bill, and I fully support it. In fact, I vehemently support whatever it takes to ensure that we have the proper procedures in place to enact this legislation. Thank you for your time. And I respectfully request your support of LB 66 and the amendment thereof. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. You've heard the opening on LB 66. There are Revenue Committees. Chairman of the Committee Landis, you're recognized to open on AM0296.

SENATOR LANDIS: Thank you, Senator Cudaback, members of the Legislature. Senator Pederson has been generous with his time and attention in making the adjustments that were suggested by the Revenue Committee in Exec Session, in ways that they would like to see LB 66 clearer and tightened than its original green copy. In fact, there hasn't been any resistance whatsoever. The desire has been, from everyone, to make this a well-written, clear, and focused bill, and for which I think Senator Pederson deserves our laud. This comes, as Senator Pederson tells us, from the people, in that they have voted for this idea. And it was the desire of the Revenue Committee to make sure that the triggering mechanism would be used for genuinely historic buildings, not simply old buildings. Those are not the same. Secondly, we didn't want to have local officials who might be politically adroit handing out these designations to friends and family, or whomever, just because it's old, because what constitutes being historic is different than that. And we needed to make sure that we had a legitimate standard. That legitimate standard, essentially, is the National Registry of Historic Places. A location will need to be historically significant. It will either need to be on the registry or would otherwise qualify for the registry, even if that hasn't been done. Well, who's in a position to tell us if the property

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would meet such a standard? And the answer comes back, the State Historic Preservation Officer. This is a trained person in the Historical Society. They're able to adjudge these things. They're intimately familiar with these national standards, and should be able to give us an answer as to whether this would qualify for the national registry. Doesn't have to be on the registry; needs to meet the standards so that it would otherwise do that. It's also possible to have a district, a historic district. And so, too, the Preservation Officer gets to determine whether or not a building in a historic district would qualify for the national registry. They need to be approved before the project begins and the valuation freeze occurs. The...Senator Pederson recited the standards by which we freeze values and allow the property owner to get some benefit for having gone through this. It is also the obligation of the owner to provide information upon completion. What we didn't want, because this was eight years long, was for somebody to get a designation easily at the beginning, then for six years do nothing, then come back and say, gosh, you know, what, I've changed my mind, and they would have gotten six years of frozen benefits, of frozen values, and therefore significant benefit. So the owner must provide information upon completion of the rehabilitation, including photographs. The State Historic Officer is to issue a final certificate of rehabilitation when the rehabilitation has been done. And that's the point at which the benefits begin to be received. We get the rehabilitation and the designation prior to giving the benefits. It is also possible for the benefits to be revoked. Now, it's a long shot, but it's possible. A building that's no longer significant to a historic district, or would no longer be considered qualified for listing on the National Registry of Historic Places. The reason why a building might at one point be historic and then lose its historic quality is if it is altered so significantly that it ceases to be the building that was historic, but now has glass windows and skylights, and plastic walls, and you know, whatever other exotic kinds of decoration might occur. It needs to continue to be that historic building that it has been. There was a provision in the bill that this committee strikes. The certificate of rehabilitation is to be revoked on a change of ownership other than a transfer between families, was in the original bill. We didn't want this benefit to go with the owner

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of the property; we wanted it to go with the property itself. If the owner changed hands, undoubtedly the value of the property would have been affected by these changes and rehabilitation. And we wanted to keep the incentive for this historic preservation to occur, so we struck the provision that revoked these benefits should there be a change in ownership, allowing it to run with the land, which we think was appropriate. There is a way to protest State Historic Preservation Officers' decisions. They may be protested within 30 days. The officer is to hear the protest in 14 days, and send notice. And it may be subject to a district court challenge. I close by saying, the Revenue Committee worked diligently with Senator Pederson, who, again I say, was very open in achieving the ultimate ends that the public endorsed. The bill is, I think, now tighter, easier to carry out. I believe a landowner would more clearly know what they're obligated to do. And we will ask that obligation up-front. But once they've done that, there is the benefits, which remain essentially unchanged in the committee amendments. They are essentially as generous as Senator Pederson and the bringers of the bill would have us have done before. It's simply that we regularize the process by which those benefits are granted. I endorse the committee amendments, and then I endorse LB 66, which advanced, I believe, unanimously from the committee, as amended. I ask for the adoption of the committee amendments.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on the committee amendments on LB 66. Mr. Clerk, announcement, please.

CLERK: Mr. President, Senator Kremer, as Chair of the Agriculture Committee, would like an Executive Session of the Agriculture Committee at 9:30 underneath the north balcony. Agriculture Committee, 9:30, underneath the north balcony.

SENATOR CUDABACK: Thank you, Mr. Clerk. Now on with discussion of the committee amendments to LB 66. Senator Chambers, followed by Senators Howard and Don Pederson. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I had begun yesterday just tentatively raising some issues with

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Senator Don Pederson. So I'm going to do that on the mike. Senator Pederson, now we're looking at the committee amendment, which is the area where you and I were beginning our discussion. And before I begin to ask Senator Don Pederson questions, I want to just stake out a bit of territory. And it may seem irrelevant to this bill. But I think it's relevant because it shows now sometimes things which are done with a particular legislative intent do not work out in reality in accord with that intent. There were various bills, when the Legislature was trying to give the state away to these various companies, when legislation relating to declaring certain land blighted came before us. I was opposed to it, because the way the language was drafted, they could come into an area which was not blighted in the ordinary sense of the term, proclaim it to be, utilize eminent domain, and take people's property and turn it over to a private company. That has been done. Areas have been proclaimed blighted which were not. This bill is talking about allowing city councils, by ordinance, county boards, by resolution, to declare certain types of property to be of historical significance. I need to be sure that this is not just a tax dodge, that it is not going to create any unintended consequences. So now I will ask Senator Don Pederson a question or two, looking at page 1 of the committee amendment. Senator Pederson, in line 9, I can understand very easily talking about real property individually listed on the National Register of Historic Places.

SENATOR CUDABACK: Would you yield,...

SENATOR CHAMBERS: That's a specific building. Then we come to line 11, "Real property within a district listed in the National Register of Historic Places." Now, that's a question that I want to pose to you, Senator Don Pederson. What constitutes a district that the National Register of Historic Places would embrace?

SENATOR D. PEDERSON: Thank you, Senator Chambers. And we started to discuss this yesterday, and the time didn't allow us to continue that discussion. But I would say that both paragraph (2) and paragraph (3) deal with specific concerns. Paragraph (2) is a long-standing matter dealing with designation

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of historic properties. I think both in Omaha, Lincoln, and several other locations within our state, we have areas that have been designated as a national historic area. Now, not all of the properties within that area would be subject to this historic preservation. They have to be what we call contributing properties, that is, those properties who contribute to the qualification for this area. And I...the rule of thumb that they use in the Historic Society is, 85 percent of the properties within that district must be of an historical nature in order for the district itself to qualify.

SENATOR CHAMBERS: Okay.

SENATOR D. PEDERSON: But individually, those properties that may receive the benefits from this would have to be judged on...

SENATOR CUDABACK: One minute.

SENATOR D. PEDERSON: ...their own merit.

SENATOR CHAMBERS: Okay. Just being in the district is not enough,...

SENATOR D. PEDERSON: No.

SENATOR CHAMBERS: ...for the purposes of this bill. Then when we come down to line 15, where there can be individually designated property pursuant to an ordinance or a resolution and approved by the State Historic Preservation Officer, that would mean it is not on the National Register of Historic Places; otherwise it wouldn't need this local or county designation. Is that correct?

SENATOR D. PEDERSON: That's true. And this area of the...of this law probably gave us more trouble than anything. And the reason for that...reason for this designation, and the Section 2 that follows that, has to do with the fact that under nationally recognized authority...and I suppose it's the idea of giving local control. They have allowed this sort of thing, where city ordinances or resolutions may...

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SENATOR CUDABACK: Time, Senator Pederson.

SENATOR D. PEDERSON: ...designate certain properties. I'm sorry?

SENATOR CUDABACK: Time, Senator Chambers.

SENATOR CHAMBERS: That's okay. I'll...

SENATOR CUDABACK: I'm sorry.

SENATOR CHAMBERS: ...continue when my light is recognized. Thank you.

SENATOR D. PEDERSON: Okay. Thank you.

SENATOR CUDABACK: Mr. Clerk, an amendment, please.

CLERK: Senator Landis would move to amend the committee amendments. (AM0518, Legislative Journal page 587.)

SENATOR CUDABACK: Senator Landis, you're recognized to open on your amendment to the committee amendments.

SENATOR LANDIS: Thank you. One of the virtues of being on public access TV, or whatever, is that people can see what you're doing. And in fact, this bill was being watched by the TERC commission. And our former colleague and good friend Bob Wickersham said, ah, you know, we need to be able to make sure that the appeal process to TERC is well done and crafted appropriately. So in fact he suggested to George this amendment. The reason is, that base value that's set is subject to appeal. And if it was subject to appeal, first you'd want it to go to TERC or to how that appeal would be set. But secondly, that length of time into that appeal would run afoul of the deadlines that are in the bill. So this very short, modest amendment that inserts "or as finally determined if appealed," because those are the only words that are added, means that the time lines essentially begin running not just when the value is affixed, but when the value is affixed and the appeal process is completed, so you have a final value. It's a way to make sure

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that we have the time and ability to appeal that base value and comport with the deadlines that are in the bill. It is housekeeping, but it's important housekeeping and a good catch by Senator Wickersham. I would ask for the addition of the words "or as finally determined if appealed" after "13-509," which is the amendment that I offer to the body. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the opening on the amendment to the committee amendments to LB 66. On with discussion. Senator Howard.

SENATOR HOWARD: Mr. President and members of the body, thank you for the opportunity to speak. I'm very grateful to Senator Pederson for introducing this bill. My district is 9, which runs primarily down the corridor of Omaha, from UNO to 24th Street. There are many historic properties in this area. People are working diligently to maintain these properties, but of course the commitment of time and money in many cases can hamper that. I appreciate this, and our district is looking forward to having the opportunity to restore their homes. Some of the areas in our district--for example, Dundee--have already been declared historic districts, and are working under the Preservation Act. But I'm in support of this bill, and thank the senator for bringing it in. And I return the remainder of my time. Thank you.

SENATOR CUDABACK: Thank you, Senator Howard. Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Senator Howard, for your comments. I appreciate that. In regard to the amendment proposed by Senator Landis, I'm glad that Senator...former Senator Wickersham is still with us, not just in spirit. He's...we all know how technical former Senator Wickersham could be. And he was almost always right in those technicalities. And I would urge the adoption of the amendment proposed by the committee at this point. And then, as long as I have a little time, I'd like to continue my discussion with Senator Chambers concerning the questions that he was asking.

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SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Pederson. We're now down into subsection (3),...

SENATOR D. PEDERSON: Yes.

SENATOR CHAMBERS: ...where it says, real property individually designated pursuant to the ordinance or resolution. And if I understood you correctly, the national people allow this kind of activity to take place, to restore a measure of local control to the process? Or did I misunderstand?

SENATOR D. PEDERSON: No, that's exactly what it is. And the reason for the length of this bill, frankly, dealing with Section 2 and carrying on later, has to do with the detail required of the resolution or the ordinance by the city in order to comply with the same technicalities that would be used by the State Historic Preservation Officer. So they want to know...and there are only three locations in the state of Nebraska where they have such bodies--Omaha, Lincoln, and Red Cloud. And these are the only ones that have appropriate documentation for the resolutions. But as you...

SENATOR CHAMBERS: May I ask you...

SENATOR D. PEDERSON: Oh, I'm sorry.

SENATOR CHAMBERS: Just so that I can follow. So then this is not giving blanket authority to any city council and any county board or board of commissioners to do this?

SENATOR D. PEDERSON: That's exactly right.

SENATOR CHAMBERS: That...

SENATOR D. PEDERSON: And it has to be directed along the lines of Section 2. So do you have this, do you have this, do you have this resolution within the requirements of the federal act, in order to comply with this request.

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SENATOR CHAMBERS: I'm almost prepared to call you "Dr. Feel-good," instead of reserving that for Dr. Johnson, because I came here this morning with an ailment, and you have almost cleared it up. So I am going to listen. And I do have my light on, but I won't take any more of your time at this point. Thank you.

SENATOR D. PEDERSON: Thank you. I would further just finish up on this question that you have by stating that what this really does is gives the bodies that have those kinds of resolutions and ordinances the opportunity to make the investigation required by the State Historic Preservation Office. And...but they have to submit what they have to the Preservation Office before a property is designated for this purpose. So if they are able to do the field work, if you might say, in order to get this done, probably saves the state some money in order to alleviate their time in connection with this, but the end result is going to be the same. So with that, once again I would urge the adoption of AM0518, and ask that we move forward. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I wanted to wrap up what I have to say on my own time. When I came here this morning, as I was going to touch on, I was in a condition where you could say it would be described by the "plight of the bumblebee." But having lifted that heavy burden, now "The Flight of the Bumblebee" is appropriate. I just wanted to be sure that we were not creating a set of circumstances where any city council, any county board, could decide to designate various bits of property or areas as districts, and create things that I did not want to see, which I felt would not be appropriate. But since the criteria are in place in the bill, Senator Pederson mentioned the only three locations where this is available at this point, I am greatly reassured. One of the problems with the society, and generally one like you find in Nebraska, where if you use the term "society" you have to put it in quotation marks, there is not an appreciation for art, an appreciation of art. And I don't mean just the plastic arts you

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paint, you draw, you sculpt, but dancing, singing, writing, all of the means that people use to express those parts of their nature which are not expressed in the political arena, in the jangling, clanging area of commercialism, but where people can feel comfortable expressing those human qualities. Buildings are artifacts. And the word "art" or "artificial" simply means something that's human-made. It doesn't have to be made in accordance with a standard of mine or somebody else's. And that's why they say, when it comes to art, beauty is in the eye of the beholder. But that expression of the human spirit, whether in the stone of a building, the wood of a sculpture, or the marble, or the lines drawn on paper, or the painting on a canvas, these are the things that enrich a person's life. These are the things that ennoble a people. And these are the means by which you leave a record of what you really were and what you deemed to be important. I will never forgive those people who, when I came down here, drilled holes in the ceiling of this Chamber to put closed-circuit television cameras to watch me because they thought I came down here to throw bombs or hit people upside the head with sticks, and the things that police usually do, but which I have never done. This is a good bill, in view of the work that the Revenue Committee has done to limit its scope and restrict it to the purposes that were envisioned when people voted to approve that amendment to the constitution. Frankly speaking, I don't know if people envisioned what I'm talking about at all. I don't know if they had any idea or notion about what I'm saying. And if they heard me, they might say that I'm crazy. But they nevertheless amended the constitution so that what is being attempted by this bill can be done. So Senator Landis has brought us what he called a housekeeping amendment. I'm a senator, not a housekeeper. So he being the expert on that, I will take his word for it. When the "Wizard" from...and I won't give where he used to be from, but I always referred to Senator Wickersham as the "Wizard." And once again he demonstrated that ability and talent which Senator Pederson touched on.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: And when we do have people observing our work on the floor, and will offer their expertise, which will enable

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us to bring more appropriateness to the legislation we're considering, I think we ought to deem ourselves fortunate. This is one of the benefits of electronic technological advancement. I'm old school. The most advanced thing in my office that I use is an electric typewriter. And it took me a few years to come around to using that. But if Bob is watching, I want to tell him I appreciate it, and he and I are going to have to get together again as we once did as co-wizards, and see what other magic we can work. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Stuthman, on the amendment to the committee amendments.

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I'm in support of the amendment, that I am. But I would like to get a few questions answered that I have concerns with. And I'd like to ask Senator Pederson, if he'd respond.

SENATOR CUDABACK: Senator Pederson, would you respond?

SENATOR D. PEDERSON: Yes, I will.

SENATOR STUTHMAN: Senator Pederson, the valuation on this property is determined by who?

SENATOR D. PEDERSON: The assessor of the respective counties.

SENATOR STUTHMAN: The respective counties determines the value on that property. And that is what we're working with, with the appeal process and everything like that. That is correct?

SENATOR D. PEDERSON: That's correct.

SENATOR STUTHMAN: Okay. On this property, does the value of that property change at any time in the future?

SENATOR D. PEDERSON: Actually, what we do at this point is, once it's determined what the...that the improvements have been completed, then the assessed value at that time goes with that property for the period of time we're talking about, the eight years and then the four years.

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SENATOR STUTHMAN: Okay. The issue that was brought to my attention in my local area was that, you know, if this property, you know, is preserved, rightfully so, taken care of and everything, and the value is placed upon it, what if this individual sells this property for twice the value of that property as to what the valuation is on it? When does that valuation change? Or when does anything change on it? Or does it ever change on the original valuation that was placed on it?

SENATOR D. PEDERSON: Well, originally we had in the bill that if there was a change of ownership then the credits that we were talking about here would stop. But it was the consensus of the Revenue Committee, after hearing matters of testimony, that the actual purpose of this bill was to retain historic properties. And the fact that there had been an ownership change would be immaterial to the valuation of the property, and so we should continue on with the program through the time that the credits are there. So there won't be a change until we come to the end of the eight years. And at that point, there will be a value assessment made, and there will be...the increase then will be taxed beginning at that point.

SENATOR STUTHMAN: Okay. So then that...actually the consideration of the value if the property did change owners, you know, that would be taken care of after this time frame. So I can see where, you know, there would be an adjustment made at some time then, depending upon the increase in value, that somebody did benefit from it.

SENATOR D. PEDERSON: Yes, that's correct.

SENATOR STUTHMAN: Okay. Thank you, Senator Pederson. That's all the comments I have. And I'll return the balance of my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Stuthman. Further discussion on the amendment to the committee amendments? Seeing no lights on, Senator Landis, you're recognized to close on AM0518. Is Senator Landis on the floor? Senator Landis, you're recognized. Anybody present to address the amendments that

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Senator Landis introduced? Senator Chambers, are you recognized to do so?

SENATOR CHAMBERS: Yes. Mr. President, I think the amendment was explained by Senator Landis. And it will make sure that there's not a conflict...oh, and Senator Landis is here. So I would relinquish my time to Senator Landis.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Landis.

SENATOR LANDIS: I was just doing the latest chapter of the natural gas wars out in the lobby. Don't worry; your time is coming. It is exactly as Senator Chambers was about to say. This is simply to harmonize the appeal process to LB 66. I would ask for the adoption of the amendment.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the closing. The question before the body is, shall AM0518 be adopted to the committee amendments? All in favor vote aye; opposed, nay. The question before the body is adoption of AM0518. Record please, Mr. Clerk.

CLERK: 36 ayes, 0 nays on adoption of Senator Landis' amendment.

SENATOR CUDABACK: The motion was successful. The amendment has been adopted. Back to discussion of committee amendments to LB 66. Open for discussion. There are no lights on, Senator Landis. You may close on the committee amendments if you care to.

SENATOR LANDIS: Just to say that...and to substantiate the explanation that Senator Pederson gave Senator Chambers, we have taken out the power of local decision makers to exercise arbitrary authority. The standards of the National Historic Register need to be met. The State Historic Preservation Officer is...needs to be...to certify that fact. And this will not be subject to, let's say, local arbitrary practices, or designated buildings that do not have genuine historic relevance. And towards that end, I support the committee amendments, and of course the bill itself, having been endorsed,

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as it was, by the public at the last election. I ask for the adoption of the committee amendments.

SENATOR CUDABACK: Thank you, Senator Landis. You've heard the closing on the committee amendments. The question before the body is, shall those amendments be adopted to LB 66? All in favor of the question vote aye; opposed, nay. We're voting on the adoption of the committee amendment. Record please, Mr. Clerk.

CLERK: 39 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR CUDABACK: Committee amendment has been adopted. Back to discussion of the advancement of LB 66. Open for discussion, advancement to E & R Initial. There are no lights on. Senator Don Pederson, you're recognized to close.

SENATOR D. PEDERSON: Thank you, Mr. President. I have appreciated the discussion we've had on this bill. And I trust that we all have a better feeling and understanding as to what we are doing by this bill. The voters at the November election told us that we need a bill, and I think we've done our part. And we've certainly had the cooperation of all of the parties that would be involved in fashioning something that will be used in implementing this constitutional amendment, and I appreciate all of the help that they've all given. I'd also like to acknowledge the efforts of Friends of Amendment 1, who went out and were able to put out the word. As I said, they had a budget of \$225,000 to do this, and they only fell \$200,000 short of that. But I think if you have a good measure and you have public support...and certainly the newspapers and the various communities have done a good job of getting the word out individually, and that's the way good legislation like this can occur. So I thank you all for your cooperation. We only have 138 years of history in Nebraska, which isn't a long time. But what we do have we need to preserve, and this bill will give us the opportunity to do that. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Don Pederson. You've heard the closing on the advancement of LB 66. The question

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before the body is, shall LB 66 advance? All in favor vote aye; opposed, nay. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 41 ayes, 0 nays, Mr. President, on the advancement of LB 66.

SENATOR CUDABACK: LB 66 does advance. We now go to General File. Mr. Clerk, LB 98. I'm sorry. We have LB 66A. I apologize for that. Senator Don Pederson, you're recognized to open on LB 66A.

SENATOR D. PEDERSON: Mr. President, it will be necessary to have some administrative work done in order to fulfill this particular measure. And it's been estimated by the Fiscal Office that it will amount to about \$5,000, which is a rather modest sum to do this. And I would ask you to pass LB 66A. Thank you.

SENATOR CUDABACK: Thank you, Senator Pederson. Open for discussion on the advancement of LB 66A. Seeing no lights on, Senator Pederson, did you wish to close? He waives the opportunity to close. The question before the body is advancement of LB 66A to E & R Initial. All in favor vote aye; opposed, nay. Record please, Mr. Clerk.

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB 66A.

SENATOR CUDABACK: LB 66A advances. Now we go to General File. Mr. Clerk, LB 98.

CLERK: LB 98, by Senator Schimek. (Read title.) The bill was introduced on January 6 of this year, at that time referred to the Government, Military and Veterans Affairs Committee. The bill was advanced to General File, Mr. President. I do have Government Committee amendments pending. (AM0057, Legislative Journal page 346.)

SENATOR CUDABACK: Thank you, Mr. Clerk. (Visitors introduced.) Senator Schimek, you're recognized to open.

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SENATOR SCHIMEK: Yes, thank you, Mr. President and members of the body. I want to let you know right now that what we're going to be talking about here today are actually two bills that came out of Government Committee. One is the committee amendment, and one is the actual bill. LB 98 is a result of the work of the Vote Nebraska Initiative. And it actually allows an election commissioner or county clerk to determine whether to conduct a special election by mail. Now, for those of you who were in the body, or even those of you who weren't in the body, several years ago, Senator Cudaback brought a bill to the Legislature that provided for an election by mail. And we made it very specific and very limited, but it really applies only to issue kinds of elections. But the problem was, as discussed in our committee and the Vote Nebraska Initiative, the subdivision itself got to determine whether a special election would be conducted by mail or not. That was thought to be somewhat problematic for election commissioners and county clerks. So we decided that the better policy would be to let those elected officials consider the cost and the expected vote out...turnout of holding the election by mail. And that...again, we believe that the special elections by mail may increase voter turnout and provide cost savings. And the final vote on the recommendation for the Vote Nebraska Initiative was 15 to 0 in favor of the change. The committee had the hearing. The committee advanced the bill 7 to 1 with only one person being absent. Nobody came in as opposition to the bill. And the Secretary of State's Office and the election commissioners and county clerks association came in also in favor. So with that, Mr. President, I would return the rest of my time to the Chair until it's time to talk about the committee amendments.

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: Thank you, Senator Schimek. Senator Cudaback. Okay. All right. Excuse me. Senator Cudaback's light was on. Senator Schimek, to open on the committee amendments.

SENATOR SCHIMEK: Yes. Thank you, Mr. President. As I mentioned to you, the committee amendment is LB 35. And the committee did kill the bill after we attached it as an

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amendment. So it is on your gadget. It's a very simple little bill, and I really mean that. It just changes the term "absentee ballot" to "ballot for early voting." And it almost didn't seem justifiable to have a separate bill for that, so we combined the two bills. And the...again, it's the recommendation of the Vote Nebraska Initiative. We believe that clarifying the language regarding absentee ballots would remove some of the confusion voters may have regarding the term "absentee." Because you don't have to be absent from the state or from your polling place on election day in order to get a ballot anymore. So we just thought it would be better to change it to "early voting." It actually probably could have been all incorporated into one bill. But we thought it was good to have hearings on each one. So now we've incorporated at least these two bills, and I would urge the adoption of the committee amendment.

SENATOR JANSSEN: Thank you, Senator Schimek. I see no lights on. Would you like to close? She waives closing. The question is the adoption of the committee amendments. All those in favor vote aye; those opposed, nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 32 ayes, 0 nays on the adoption of committee amendments, Mr. President.

SENATOR JANSSEN: The amendment is adopted. Discussion on advancement. Senator Cudaback.

SENATOR CUDABACK: Mr. President, members, I guess times change. You know, nobody really likes change, or most people don't, I should say, including me. I'm really against change unless it's for the betterment. Back when I introduced this bill, oh, eight or nine years ago--hate to admit I was here that long ago--but it was confusing, and there was some opposition. I think there was even a filibuster for six or seven hours. And it was a bill that maybe was come before its time. But we all know, with computers, this and that, e-mails, "you've got mail" and all this stuff, you know, times are going to change whether we want it or not. Someday we're going to be in our own homes and we're going to push a button and...when it comes election day, and

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there will be no more polling places; you'll just sit in your home and push a button and you'll vote for your favorite candidate, whether it be me or somebody else. But that time is coming. And you just...the proper thing is to take it step by step. And this is another step. And this is the way it is, like it or not. But times do change. And I commend Senator Schimek for bringing this to it. And I guess it's just another step in the way we do things. So I appreciate it, and thank you.

SENATOR JANSSEN: Thank you, Senator Cudaback. There are no further lights on. Senator Schimek, would you like to close? She waives closing. The question is the advancement of...let's see, what bill is it...LB 98. Those in favor signify by voting aye; those opposed, nay. Have you all voted? Record, Mr. Clerk.

ASSISTANT CLERK: 29 ayes, 0 nays on the motion to advance, Mr. President.

SENATOR JANSSEN: The bill is advanced. Mr. Clerk, LB 7.

ASSISTANT CLERK: Mr. President, LB 7. (Read title.) The bill was read for the first time on January 6 of this year, referred to the Urban Affairs Committee. That committee reports the bill to General File with committee amendments attached. (AM0037, Legislative Journal page 346.)

SENATOR JANSSEN: Senator Dwite Pedersen, to open.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. This bill allows a municipality to adopt an ordinance that would allow pedestrians to solicit contributions on roadways within its corporate boundaries if the contributions are to be devoted to charitable or community betterment purposes. It was brought to me by the firefighters, mostly the firefighters of Omaha, who I am very much supportive of, who have had a relationship for 50 years with the Muscular Dystrophy Association, whereby they raise money for that organization with a promotion that involves collecting funds on city streets in their firefighter boots. Several years ago, this practice was

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determined to be illegal, as Nebraska statutes prohibit this behavior. In an effort to make it possible for this unique form of fund raising to continue to occur, this bill was proposed. The bill would simply allow cities, rather than the state, to regulate this type of activities on roadways under their jurisdiction. If the city is interested in promoting this activity, they can. If the city decides this is not an activity that they want to encourage in their city, they would not have to pass an ordinance, and this type of solicitation would remain illegal. In any case, the decision over traffic regulation would be a local one, based on local input. Two years ago, this bill was sent to the full Legislature for debate. During the course of this decision, two amendments were adopted, and these amendments have been incorporated into LB 7. Several concerns were expressed by the body during debate on this bill, including that minors could be involved in this type of activity. The current wording of this bill prohibits minors from soliciting contributions. There was also concern expressed that the law should not exclude or give preference to any individuals or members of any organization, association, or group. So that language has also been excluded. During previous discussions regarding this bill, concern has been expressed for the safety of motorists, should this type of solicitation impede traffic or endanger the solicitors. It is important to remember that regardless of the adoption of any ordinance allowing a person to be present on roadways to solicit contributions, it would still be a traffic infraction to fail to obey a police officer who indicated that solicitation was causing public safety to be compromised, and ordered a solicitor off the street as a result. Basically, I believe that this bill would allow for legitimate organizations to continue to raise funds in the way they have for the past 50 years. It is my understanding that the Urban Affairs Committee has proposed a committee amendment which will further clarify the intent of the bill. And I know there's an amendment by the Transportation, Telecommunications Committee. And I am in support of both. I want to publicly thank Bill Stadtwald and my staff for all the work that has been done on this bill, and the committee. Thank you.

SENATOR JANSSEN: Thank you, Senator Pedersen, for your...you've heard the opening. Mr. Clerk, are there committee amendments?

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ASSISTANT CLERK: Mr. President, I do have committee amendments from the Urban Affairs Committee.

SENATOR JANSSEN: Let's see. Senator Friend, to open on the committee amendments.

SENATOR FRIEND: Thank you, Mr. President. Members of the Legislature, the committee got together, discussed the bill. The proposed committee amendment is intended to clarify precisely what municipalities would be authorized to permit under the discretionary authority being granted by the bill, LB 7. The ordinances being authorized would grant permits to pedestrians, by organization or name, who are over 18 years of age, to clarify the current prohibition against minors, if you will, and participating in passing the boot, since minors could be anything from 17 to 21 years of age, depending on the statute or the function. Further, the permission being granted would be limited by time and place. And it would permit the pedestrians soliciting for their organization to enter only specified roadways at specified locations and at specified times. And finally, it specifically restricts the entry upon the roadways for soliciting contributions to approaching vehicles that are stopped on the roadway by traffic control devices or traffic control signals, as defined in Section 60-670 and Section 60-671. And that...obviously, that would mean stop signs or traffic lights. The amendment specifically reads, on page 2, you're striking lines 11 and 12 and inserting, "pedestrians over the age of eighteen to enter one or more roadways at specified times and locations and approach vehicles when stopped by traffic control devices or traffic control signals for the purpose of soliciting contributions which are to be." And with that, I would ask for the adoption of AM0037, the committee amendments, and the advancement of LB 7. Thank you, Mr. President.

SENATOR JANSSEN: Thank you, Senator Friend. Mr. Clerk, is there an amendment to the committee amendments?

ASSISTANT CLERK: Mr. President, Senator Baker would move to amend the committee amendments with AM0308. (Legislative

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Journal page 457.)

SENATOR JANSSEN: Senator Baker, you're recognized to open on your amendment.

SENATOR BAKER: Thank you, Mr. President and members of the Legislature. I bring this amendment because we had some concerns in our committee, Transportation Committee, that if we're going to do this we want to restrict them so that they cannot do it on roadways that are part of the state highway system. Do this, if you will, in a city, but not on a roadway that's part of the state highway system within a municipality. So, very straightforward. It further restricts where these solicitations can be done. And it simply...AM0308 says, "except roadways that are part of the state highway system." And I would ask for the adoption of AM0308. Thank you.

SENATOR JANSSEN: You've heard the opening on the amendment. Thank you, Senator Baker. Those wishing to address the amendment to the committee amendment. Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President, members. I'm going to support the amendment, but I'm very, very, very uncomfortable with this bill at this point. Helping...it does help it a little bit to have the amendment to restrict it to not on highway system, but...because I think that's where the traffic is moving quite rapidly and should be taken off. But I'm still very uncomfortable with the bill in general. I think I'll talk about it a little more later, after this amendment goes on. But it just doesn't seem logical to me to put people out in this traffic stream, regardless of the cause. And this is an area, to me, where the means is justifying the ends. And I can't help but wonder where we're headed with this. Who's going to be responsible? Will the city, or the town, or the village? Maybe Senator Dwite Pedersen can answer this on his own time. But if they allow this, does that mean that they're liable? Because, to me, sooner or later, someone is going to get hit. In this day of tinted windshields, marginal weather, things like that, someone is going to get it in stopped traffic. I know I'm swimming upstream against popular firemen, so forth, that want to do this. And I know that's going to be popular. But it just

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doesn't make sense to me to put people at risk, regardless of the reason, into traffic areas, when we're trying to be careful in all other areas about pedestrians. So I support the bill. But I...or, I mean, I support the amendment, but I'm very skeptical of the bill. Thank you.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Thank you, Senator Wehrbein. (Visitors introduced.) On with discussion, AM0308. Senator Howard.

SENATOR HOWARD: Thank you, Mr. President and members of the body. I rise in support of the Senator's bill. And the individuals who have asked to have this bill brought forth are our safety-minded first line of defenders. And I have every confidence that they will be there observing all safety rules. I support them, and I thank them, actually, for coming out on their own time to be there on the streets to request money for causes that benefit us all. Thank you, sir. And I return my time.

SENATOR CUDABACK: Thank you, Senator Howard. Senator Engel, on AM0308.

SENATOR ENGEL: Mr. President and members of the body, I definitely support this bill. In South Sioux City we've had what we call Pete's Feeders for the last 45 years. A former, in fact, deceased police chief started this many, many years ago, and to raise funds around Christmastime every year. And all the funds that are raised are used to purchase groceries and other supplies for the poor families in the area. And those are delivered by the local fire department or other volunteers. Different civic organizations have different corners on the...along our main avenue, which used to be a state highway going through South Sioux City. And of course, the traffic was limited to 25 miles an hour, so it's just like any city street. And they...and that has really become a tradition in our community and other communities throughout the state. And I think this is very important, especially for all the good that these charitable organizations do. So I definitely support the bill, and would request that you advance it.

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SENATOR CUDABACK: Thank you, Senator Engel. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature. Senator Pedersen, if I could ask you a couple of questions it would be helpful to me.

SENATOR CUDABACK: Senator Pedersen, would you respond?

SENATOR Dw. PEDERSEN: Yes.

SENATOR BEUTLER: I think that by and large, what most people will be concerned about, if they're concerned at all about your bill, would be the questions of liability and safety. What...the first question...I mean, there are two aspects of liability, I suppose. What is the city's liability, if any; and what additional liability would drivers have, if any, out there on the streets? With respect to the city, they would be designating the...as I understand it from the committee amendment, the times and the locations where you could solicit. Hopefully they would use good judgment. But let's take a worst-case scenario. Maybe they allow you to solicit at dusk or at night. Maybe they allow you to do it on a three-lane street and you can go to the middle lane to solicit. In other words, if the city creates a situation that might be determined by the court to be, per se, a dangerous situation, is it not possible that the city might be liable for injuries to these persons, in the event that the city is called upon to defend the scheme that it's representing to people to be presumably a safe thing to do?

SENATOR Dw. PEDERSEN: Senator Beutler, in answering that, I would say, yes, there's a big possibility that would be there. But by giving the local communities and cities and villages and towns their permission to do this, they can draft their own ordinance. If I were on one of them committees, I would say, you've got to get liability. The organization itself would have to...I would say they could draft their ordinance to say that the organization would have to get liability insurance.

SENATOR BEUTLER: Would it be agreeable to you if we put into the bill that in fact they should have that insurance, or, in

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the alternative, waivers of liability from the individuals who are involved in walking out in the street?

SENATOR Dw. PEDERSEN: I think that would be a very good amendment. I have no problem with that.

SENATOR BEUTLER: Okay. And I don't know what we do about liability with regard to third parties, people driving down the street. They will have the duty, I assume, to watch out for people soliciting in the street. Would that be a fair...and if somebody is soliciting a middle lane and stays there a little longer to collect the money and then dashes back to the curb just as the light changes, that driver in the outside lane will have the responsibility for watching for this solicitor. Is that a fair statement?

SENATOR Dw. PEDERSEN: Senator...

SENATOR BEUTLER: They'll have the duty to watch.

SENATOR Dw. PEDERSEN: Senator Beutler, it's a fair statement. But I believe the person who's behind the wheel of a car is responsible at all times, whether they're doing this or not. And they...if they have done something that has caused their liability, that's why they carry liability.

SENATOR BEUTLER: Okay. So what we need to accept if we're going to accept this proposition is an additional duty on the part of drivers to watch for these people. And that will just be a part of life in the city.

SENATOR Dw. PEDERSEN: Yes. Because I think they have to accept that on a regular basis anyway, whether it be pedestrians, or whoever it might be.

SENATOR BEUTLER: Okay. Let me ask you one more...

SENATOR CUDABACK: One minute.

SENATOR BEUTLER: ...question, with regard to how you intend the bill to function. It starts with an ordinance. It's a general

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ordinance, and doesn't preclude any...doesn't give any preference to any individual or organizations. But it is going to specify times and places. So are you envisioning, then, a permit system, where they would come in and get a permit for a specific time and place? Or is it a...it's not a free-for-all, first come, first served situation, is it?

SENATOR DW. PEDERSEN: No, I didn't...I wouldn't envision that anyway, and left that up to the community or the city or village.

SENATOR BEUTLER: You would envision a permit system, where they got a permit for a specific time and place?

SENATOR DW. PEDERSEN: Probably.

SENATOR BEUTLER: Okay. I was just interested in how it was going to function. Thank you.

SENATOR DW. PEDERSEN: Thank you.

SENATOR CUDABACK: Thank you, Senator Beutler. Senator Friend, on AM0308.

SENATOR FRIEND: Thank you, Mr. President. I only wanted to point out that with AM0308, wanted to point out that I thought that this provides some consistency, even with the committee amendment, that I think is probably preferable to almost what we had before. I did find it a little bit confusing that this amendment came up originally...or when I heard about it, that it was going to be coming up, but after some discussion, feel like it's something that we can move forward with. I would...I guess I would ask for the advancement, then, of AM...or, the adoption of AM0308, the adoption of the committee amendments, and the advancement of the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Friend. Senator Bourne, on the amendment.

SENATOR BOURNE: Thank you, Mr. President, members. Would Senator Baker yield to a question or two, please?

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SENATOR CUDABACK: Senator Baker, would you yield?

SENATOR BAKER: Yes, I would.

SENATOR BOURNE: I'm speaking specifically to your amendment, Senator Baker, and where it says "except roadways that are part of the state highway system." And I'm not familiar with your community, but of course I am with mine. And in Omaha, Dodge Street is Highway 6. Is there ever a situation where a road like Dodge Street, that is designated a highway, would be part of the state highway system within a municipality?

SENATOR BAKER: Yes, it would be part of the state highways system. Now,...

SENATOR BOURNE: Okay, so...go ahead. I'm sorry.

SENATOR BAKER: It is currently part of the state highway system.

SENATOR BOURNE: So Dodge Street...and I...is designated Highway 6. So your amendment would say that these individuals collecting money for charity would be unable to collect along Dodge street because it's designated a highway?

SENATOR BAKER: That's correct.

SENATOR BOURNE: And the same could be said for Maple Street. Isn't that a state highway as well?

SENATOR BAKER: If it's a state highway. And I'm not familiar with your roads in Omaha as you are. But if it's a state highway, they would not be able to access that for solicitation.

SENATOR BOURNE: Okay. I'm struggling as to what to do on this amendment. And I don't know if Senator Pedersen is supportive of this or not. But I think...I guess I'm...again, I'm debating as to what to do here, Senator Baker. I mean, it doesn't make much sense for me. They're not going to be collecting money on a highway where people are driving by at 55 miles an hour. But

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there are instances in Lincoln and Omaha and some of these communities where a road that is kind of a main thoroughfare is also designated as a state highway, even though that road has traffic lights and traffic control devices. So again, I'm trying to figure out exactly what you're trying to do. I...it doesn't make sense to me that anyone, especially with the committee amendment, where it's...or, especially with the bill, where it talks about they can only do this at traffic control devices. I'm trying to figure out what you're doing on a...trying to limit it from the highways.

SENATOR BAKER: What we're trying to do is limit the liability exposure to the state of Nebraska. If these people would be soliciting on a state highway within a municipality or city, they simply do not want to be exposed to that liability, and hence, the amendment excludes the state highway system from having solicitation on it.

SENATOR BOURNE: So the Department of Roads brought this to you? Or the...who brought the amendment to you?

SENATOR BAKER: Well, it was discussed with the Department of Roads, and they certainly agree with the amendment, that we need it.

SENATOR BOURNE: Where in the bill does it establish liability for the state for this conduct?

SENATOR BAKER: It does not, I don't believe, in the bill. It simply...

SENATOR BOURNE: If a municipality, by ordinance, set forth provisions and terms by which people could solicit this money for charity, wouldn't the liability, if there was any, reside with that municipality rather than the state?

SENATOR BAKER: I don't think so. It could possibly do that. And that's why, actually, the amendment has been presented, is, we want to exclude the State Department of Roads, the highway system, from being subject to any liability. And that's why the amendment is brought forth. We want to exclude them

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(inaudible).

SENATOR BOURNE: Is there another way...I mean, if that's the object, why don't we just, in the bill, say, and no state shall incur liability if this activity is conducted on the state highway?

SENATOR BAKER: (Inaudible)

SENATOR BOURNE: That would be my first question. And then my second question is, isn't this conduct, what you're trying to get at, already regulated by the Political Subdivision Tort Claims Act?

SENATOR BAKER: You could say, yes, we could grant immunity from liability to the state highway to the state of Nebraska on these...

SENATOR CUDABACK: One minute.

SENATOR BAKER: ...particular roads. But then it goes back to whether I'd even support the bill. I personally had questions whether I would support this if we did allow it on state highways. Because as you said, traffic is moving right along, and there are a number of state highway go through small towns, there are no stop lights on them. And quite frankly, I would absolutely not want somebody soliciting on, say, Highway 34 going through my hometown.

SENATOR BOURNE: Right, but they would not be able to solicit in a small town if the committee amendment is adopted, because it has to be at specified times and locations when stopped by traffic control devices. So the committee amendment would preclude an individual from doing that on a state highway that doesn't have a traffic control device.

SENATOR BAKER: Yes, it would. But between...some of these towns are one-stoplight towns, Senator Bourne, out there. And there's fairly fast traffic outside the stoplight area on these highways that do go through these municipalities.

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SENATOR BOURNE: Well, I...what I'm suggesting, Senator Baker--and I support clarifying that there would be no liability by...

SENATOR CUDABACK: Time, Senator Bourne.

SENATOR BOURNE: ...the state. But I don't think this is the way to do it.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Johnson, on AM0308 to committee amendments.

SENATOR JOHNSON: Mr. President, members of the body, I reluctantly rise to oppose the bill. The amendment may have some merit, and it makes a bill that I don't believe is a very good bill, better. But it doesn't make it good enough. There is no question that we have people who are good people trying to do good things. But that doesn't make it good. Where are we going to have these? Where are people going to be solicited? They're going to be where there's traffic. Remember Sutton's Law? Rob banks because that's where the money is. Our soliciting organizations are going to go where the traffic is. That's where the money will be. So, you know, I think we have very difficult concerns regarding liability. We talked about, they're going to be going 25 miles an hour. I have a nephew that never saw his fifth birthday because a car hit him going about 10 miles an hour. But liability isn't my concern. What my concern is, is coercion. And this is state authority for groups, and well-meaning groups, to coerce society to contribute to their cause. Can you honestly tell me that if a police organization was out soliciting funds that you would not contribute? I've been in areas and gone through areas where this was permitted, and I can certainly tell you, you are expected to contribute. I don't think this is good public policy. As I said before, I think this is good people trying to do good things, but it is not good public policy. Thank you.

SENATOR CUDABACK: Thank you, Senator Johnson. Senator Combs. Is Senator Combs..Senator Combs? She...we will pass over Senator Combs. Senator Chambers.

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SENATOR CHAMBERS: Thank you, Mr. President. Somebody said they're combing the hallways for Senator Combs. I had told Senator Pedersen that an objection I raised last time this bill came out had been removed when he put in a provision that would let everybody go out here begging. But as you listen to the discussion unfolding, there are serious concerns, and a weighing process has to be undertaken. Is the amount of money that people are talking about raising worth the possible damage of a societal nature of an ordinance being enacted by a city to allow and sanction this kind of activity? I would like to ask Senator Friend a question about the committee amendment before I proceed.

SENATOR CUDABACK: Senator Friend, would you yield?

SENATOR FRIEND: Yes.

SENATOR CHAMBERS: Senator Friend, a traffic control device could be a stop sign, couldn't it?

SENATOR FRIEND: Yes.

SENATOR CHAMBERS: So this could take place in small towns, because we're not limiting it to the electronic traffic control approach signals. Is that correct?

SENATOR FRIEND: Well, yes, that's correct. We...and that conversation, or a version of it, I guess, came up in committee. We talked specifically about that.

SENATOR CHAMBERS: And there are high...thank you, that's all I will ask you. I just wanted clarification. There are highways that go through small towns. They're part of the state highway system. And believe it or not, some of them have stop signs on them. It's not where it's just a highway going all the way through; but a street is a part of that highway. And in Omaha, 30th Street is a part of the state highway system, and there are traffic control signals and devices all along 30th. So this could apply to small towns. And the dangers that have been discussed are real. It would probably be better to let people climb on top of billboards, or maybe build a house in a tree and

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put up a sign, or whatever it is they're going to do to call attention to what they're about. But as I listened to Senator Dwite Pedersen's discussion, I didn't want to laugh out loud in spite of my self. One of these individuals is a little more devil-may-care than others, and will wait till just before the light is going to change from red to green to get the last penny out of a car that's stopped, and then will dash across the lanes of traffic for which the light has now become green. And Senator Dwite Pedersen said, well, the driver should be responsible all the time, and that's why driver's have liability insurance. I disagree. Pedestrians have responsibilities. The Legislature should not authorize cities to enact ordinances that create an essentially hazardous condition where traffic is concerned. Senator Bourne mentioned two major traffic arteries in Omaha which could be affected by this--Dodge Street, and Maple. We all know that traffic signs are advisories. People consider them to be good advice, but they often don't heed that advice. So vehicles are going to be moving willy-nilly, helter-skelter. And there are people who run red lights.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: In Lincoln, they do it constantly. If I'm at a green light, I mean, the light is green, it's turned green for me, I've been sitting at the red light and it turns green for me, I wait until that intersection is cleared, because there are people in Lincoln--and it has happened here more than any other city that I've seen--who will catch the front end...no, they get caught by the red light, but they're going to go on through anyway because they're moving rapidly. If I had moved into the intersection as soon as the light turned green and gave me the right of way, I would have been struck by that car that is running what is now a red light for that...for traffic moving in that direction. So hazards are created. Liability is a serious matter. And there might be some organizations which would have liability insurance.

SENATOR CUDABACK: Time. Thank you, Senator Chambers. Senator Combs.

SENATOR COMBS: Thank you, Mr. President, members of the body.

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I'd like a little more information on the history of this situation, if I could direct a question to Senator Pedersen, please?

SENATOR CUDABACK: Senator Pedersen, would you respond to a question from Senator Combs?

SENATOR DW. PEDERSEN: Yes, Senator Combs.

SENATOR COMBS: I was wondering, how many years has this been going on prior to your legislation being brought forward?

SENATOR DW. PEDERSEN: Fifty years.

SENATOR COMBS: Fifty years? Okay. Can you tell me, in that 50 years, how many injuries or deaths have occurred by people collecting being struck by automobiles, or having other misfortune occur that we have been discussing for the last 15 minutes?

SENATOR DW. PEDERSEN: I'm not aware of any.

SENATOR COMBS: Thank you. I return my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Combs. Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President, members. I did not quite make clear when I spoke on this bill the first time, I do support it. I support the charities that these entities raise money for, and I think that this is a good bill, and I intend to support it. I also believe that as a Legislature, we should do things directly. And if Senator Baker is concerned about liability on behalf of the state, then we should craft an amendment that simply says, there is no liability by the state or the municipality that authorizes this, and go from there. He...Senator Baker is saying that he is doing this because somehow there would be some liability by the state, and if he says that there's no soliciting on the roadways that are a part of the state highway system, then that liability might go away. I don't believe that to be the case. If we want to say that there's no liability on behalf of the state or the municipality,

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we should do so. So...but then Senator Baker says that he's going to...this is the only way he'll support the bill. I am going to draft an amendment, though, that would say there is no liability on behalf of a municipality or the state for doing this kind of conduct. I do think that if this amendment is adopted, it doesn't...it really kind of defeats the purpose of the bill. Some of the other senators had mentioned that the state highways that are traffic controlled go right through the middle of their communities, and that's the area that is choicest, for lack of a better word, to solicit the money. So, Senator Baker wants to limit the liability on behalf of the state. I agree with that concept, that goal, but I think we should do it directly. So I will be voting no on his amendment. But I do support the bill, I do support the committee amendment, and I am going to work to eliminate any liability on behalf of a municipality or the state. So, thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Chambers. Senator Chambers is on his way.

SENATOR CHAMBERS: Mr. President, members of the Legislature, there has to be liability somewhere. If you have people willy-nilly in the street, liability should be on the municipality that creates that situation. I will offer an amendment after Senator Bourne's which says that any municipality which enacts an ordinance allowing this will be liable for injuries caused to any person as a result of this activity. Don't just let the lot...the municipality create a dangerous situation, then withdraw. Before, there was no involvement by the city. People went out there, and there came a point, Senator Connealy and I were discussing it, where a group of the wrong complexion were doing the same thing, and the white ones didn't like it. So the law started being enforced against these other people for being out in the street, but not against the white ones, because the ones who enforced the law were the white ones, cops and firefighters. So, when the hubbub developed, a law was going to be put in place. When Senator Pedersen brought it the first time, I told him the way it was drafted it could be used in a discriminatory manner to favor some and ban others, so he offered language that would allow it to be an equal opportunity begging bill. But once we've got

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past that hurdle, we now are going to have more people in the street. How does one establish, to the satisfaction of the one granting the permission, that he or she is collecting this money for charity or community betterment purposes? And there the discrimination can enter in again. Some people will be held to a higher standard, so high, in fact, in some cases that they will not be allowed to go out there and beg legally. And if there's competition, you know the cops are going to get rid of the competition by harassing and running off those who would be competing with the cops who want to stand out in the street. You all don't know how cops operate. When they decide that there has to be a crackdown on gambling, bookies, there are big bookies that they never touch. There are card games the size of casino action in western Omaha and they are not going to go there. These cops wouldn't dare go there, so they go into other areas and other parts of the city and they grab some nickel-and-dime bookies, break into some nickel-and-dime card games where a bunch of old men sitting around, whiling away the day, maybe playing for pennies, but that's where the cops run. And if there happens to be a bookie in that area who has a sizeable clientele, and some of them are cops,...you all don't believe cops bet with bookies, do you? Well, they do. That bookie gets protection. And you know how he, as pay, how he pays off the cops? He doesn't give them money. Why, no. What he says is, you bet and if what you bet loses, you don't pay; but if it wins then I pay the bet; that's the kind of bookie I am. And they also have bookies that they favor over others, and if one is paying off then he is able to point out the competition which the police are supposed to run off, and police do that. Cops are nothing but men and women. Judges go to prison for wrongful conduct, prosecutors. Hohenstein from the Legislature was a prosecutor and a cop. Mossey was a cop and a member of the Legislature...

SPEAKER BRASHEAR PRESIDING

SPEAKER BRASHEAR: One minute.

SENATOR CHAMBERS: ...and he committed, or is alleged to have committed, a number of crimes. Shows you what he was when he was wearing the uniform and supposedly enforcing the law. This

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is not a good bill, but I'm going to offer an amendment so if the bill goes we'll have the opportunity to hold liable the municipality that would authorize, through formal, official action, this kind of activity. Thank you, Mr. President.

SPEAKER BRASHEAR: Thank you, Senator Chambers. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR 39, LR 40, LR 41, and LR 42. Senator Kremer.

SENATOR KREMER: Thank you, Mr. Speaker and members of the body. I guess I'd like to ask Senator Pedersen a couple questions and maybe an extension of what Senator Beutler was asking a little bit about permits.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Senator Pedersen, would you yield?

SENATOR Dw. PEDERSEN: Yes.

SENATOR KREMER: Okay. As I read the bill, I don't see any place in there that says the ordinance has to be submitted and to have permit granted. Is there something that requires the city to grant a permit?

SENATOR Dw. PEDERSEN: No, there's no...the city is not required to do so.

SENATOR KREMER: Okay.

SENATOR Dw. PEDERSEN: If they don't want to do it, they don't have to.

SENATOR KREMER: Okay, but they, if they did allow it, they would have to grant permits then, if they would allow solicitation on the streets?

SENATOR Dw. PEDERSEN: Sure. They would allow...they would do it...

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SENATOR KREMER: Because I would think you'd have to have a permit to even see if the entity that was out collecting the money would even qualify as a nonprofit. Or, you know, I guess sometimes I'm nonprofit. Could I go out and do that and...

SENATOR Dw. PEDERSEN: This says it has to be for...

SENATOR KREMER: For a public purpose.

SENATOR Dw. PEDERSEN: Yes.

SENATOR KREMER: So you'd have to almost bring your request to the city council or who...and get a permit that shows that you qualify, that you're going to use these funds for a public purpose.

SENATOR Dw. PEDERSEN: Yes. You would have to prove that.

SENATOR KREMER: Okay. Well, I think the amendments make the bill better, but I still don't think I can support it. Senator Bourne was mentioning Dodge Street, in relation to our last amendment, that it would not be able to do that on Dodge Street. I would think Dodge Street, even though they have stoplights, would be a very poor place to do that, where you have several lines of traffic. Could you run out then to the middle lane and, when the light is red, and solicit somebody out there? I just think it...and all at once the light turns and you're still standing out in the middle of the street. I just think it has a lot of problems. I think even if you say the state is not liable, that's not going to stop any...everybody from suing the state, if they've allowed us to do this. So I think the...both of the amendments do improve the bill, but at this time I can't support it. Thank you.

SENATOR CUDABACK: Thank you. Senator Chambers. This will be your third time, Senator, as you know. Is Senator Chambers on the floor? He is. Senator Chambers, you're recognized.

SENATOR CHAMBERS: Mr. President, members of the Legislature, sometimes the Legislature serves as a debating society where people give conflicting views. Some people state their views

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coherently, cogently, wittily; others, not quite. Then we have situations where an issue comes before us which, on its face, is alluring. As the discussion proceeds, it develops that deeper issues inhere in that matter. That's the kind of issue that I think we're facing here today. Because I'm not going to be able to support the bill, I will support Senator Baker's amendment. If Senator Bourne offers an amendment to remove liability from the state, I will not support that. Somebody has got to be liable. Where are the deep pockets? We are state senators. If we are going to authorize this kind of action and harm befalls the citizens, we should assume the responsibility and perhaps we should declare affirmatively that the state assumes liability, and that takes away any issue of sovereign immunity. It means that a citizen may use any of the procedures that are in place to recover from the state when the person is injured and the state is liable. I might be in favor of letting such a person circumvent the tort claims and every other act; don't even make them go to that board and try to get them to agree that this person should be compensated and perhaps have to come to the Legislature if the amount of damage goes above \$50,000; allow that person to go straight into court and recover lawyers' fees. The Legislature is doing this. The Legislature should adopt the attitude that the buck stops here. Before the state was asked to get involved, it could be a matter to be handled at the local level. If it could be shown that the city was negligent in not enforcing the law against people being out in the roadways, perhaps you could show a liability on the part of the municipality. But now that the state is being asked to act affirmatively, the state should assume the responsibility. We're not dealing with a benign action. We're dealing with one where danger inheres in the activity. There are what have come to be called good Samaritan laws. If a person stops and renders aid, that person is not held to as high a standard of care as somebody else might be. If a doctor could place himself or herself in the status of a good Samaritan, that doctor may be even excused from having to meet the level of care given by a doctor if the statute is so framed. When the state is going to create a situation where harm can come to somebody, rather than a situation where you try to alleviate harm,...

SENATOR CUDABACK: One minute.

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SENATOR CHAMBERS: ...such as with a good Samaritan bill, you're talking about two different things. It is not an essential activity that is being authorized here. It is not a governmental activity that is being authorized here. It is a very narrow approach to an activity that has been engaged in without being seriously challenged by the law until some people started doing it who were not popular to the law and the then mayor. So now the Legislature is being given this kind of work to do. I'm going to talk on the bill as long as people are discussing it, and I will discuss all the amendments that come before us, but I'm going to vote aye on Senator Baker's bill. He didn't hear that. Senator Baker.

SENATOR CUDABACK: Time. I'm sorry, Senator Chambers, but your time is up. (Visitors introduced.) On with discussion. Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, Senator Pedersen, I wanted to explore a little further what amendments you might be amenable to and not amenable to, and I wanted to focus on line 13, which defines the allowable pedestrians as being those who are seeking contributions devoted to charitable or city betterment purposes. Taking one word at a time, "charitable," in and of itself, has obviously an extremely positive connotation and most of us would probably agree that most things that would be suggested to the city as a campaign, a charitable campaign, would be acceptable to most folks. But without further definition or refinement, some very odd and some perhaps very nonaccountable types of charitable organizations, quote, unquote, could avail themselves of the use of this type of activity. Are you envisioning that the city could put certain parameters on the types of organizations that could use this? I mean, in LB 28, for example, on our charitable credit law that we're working on, it's passed General File, we limit it to 501(c)(3) corporations because at least that is a method of determining that they've met some minimal kind of definition of "charitable." Is it your intent, bottom line, to have no definition; or, two, to allow the city to define it or the municipality; or, three, should we be thinking about some definition that would represent a kind of curtailment that would

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avoid disreputable organizations coming under the guise of a charitable organization and seeking money through this methodology? Long question, I'm sorry.

SENATOR CUDABACK: Senator Pedersen.

SENATOR Dw. PEDERSEN: No problem, Senator Beutler. This was taken into consideration. And I'm just going to read this, if I had enough time; doesn't take too much time. Contributions being solicited can only be used for charitable or community betterment purposes. This is already defined in statute in Section 9-504. The definition is as follows: "Charitable or community betterment purposes shall mean (a) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being," and it goes on. I won't read the whole thing, but it's already defined in statute.

SENATOR BEUTLER: Okay. So if we made a direct reference in this statute to 9-504, you would have no objection to that,...

SENATOR Dw. PEDERSEN: No objection.

SENATOR BEUTLER: ...because that's your intent, to...

SENATOR Dw. PEDERSEN: No objection.

SENATOR BEUTLER: ...to reference that statute. Okay. Thank you.

SENATOR Dw. PEDERSEN: Thank you.

SENATOR BEUTLER: Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Beutler. On with discussion. Senator Mines, on AM0308.

SENATOR MINES: Thank you, Mr. President. I would give my time to Senator Chambers.

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SENATOR CUDABACK: Senator Chambers, you have almost five minutes.

SENATOR CHAMBERS: Thank you, Senator Mines. Thank you, Mr. President. Members of the Legislature, I'd like to ask Senator Dwite Pedersen a question.

SENATOR CUDABACK: Senator Pedersen, would you respond?

SENATOR Dw. PEDERSEN: Yes, Senator Chambers.

SENATOR CHAMBERS: Senator Pedersen, I may have not heard your response. Were you asked if you support Senator Baker's amendment?

SENATOR Dw. PEDERSEN: Yes, I do.

SENATOR CHAMBERS: You do support it.

SENATOR Dw. PEDERSEN: Yes, I do.

SENATOR CHAMBERS: Okay. Thank you. Members of the Legislature, we're starting to bring a bit of narrowing to where this thing can be effectuated. It cannot be done on Dodge Street. It cannot be done on Maple Street. It cannot be done on 30th Street. I'm going to see if 24th Street is a part of the state highway system anywhere. But if we narrow it enough, then pretty soon there will not be a great amount of concern that I might have because it will be operational only in those little cul-de-sacs, those little turnaround places where you drive in and, if you got a house there, you can go in your garage, and people can do that, but it's not a general traffic thoroughfare. And I don't know if the people in that area would want all these individuals come in there, in their regalia and their buckets, collecting money. But what I had told Senator Bourne I might consider doing, so that we're not going to put an undue burden on drivers, we would require the ordinance to have designated begging zones and they would have to be marked appropriately. And the driving public would be notified that these traffic signals stay red for a longer period of time, so it means concurrently the green signal for traffic moving the

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other way will stay longer for a period of...longer period of time so that there can be more begging. Drivers will be cautioned to be on the alert, and maybe within at least a block and a half of that area we'll post a sign where it says, slower speed ahead. And then it will be marked as you come closer to it and you would have marked, so people will see it, designated begging zone, and anybody who's going to beg has to do it in that area. And if drivers don't want to be harassed at a traffic light where they feel the only way they can get rid of this person who is importuning them is to give money, they could avoid the designating begging zone. And if Senator Baker's amendment is adopted, that begging will not occur on any road which is a part of the state highway system. But if we see the need to do what Senator Baker is presenting--and I intend to support his amendment--it becomes clearer and clearer that this is one of those ideas which sounds good. In theory, it may have an allure. But when the state is being invited into the situation, a different point of view, I think, should assert itself. If this bill is enacted, it is giving authorization to any city or municipality. I'm going to see what the word is. Any municipality may, by ordinance, allow...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...and if you adopt the committee amendment, allow pedestrians over the age of 18 to enter one or more roadways at specified times and locations and approach vehicles when stopped by traffic control devices or traffic control signals for the purpose of soliciting contributions which are to be devoted to charitable or community betterment purposes. Does the state really want to do this? And Senator Beutler is touching on a very crucial area, and that relates to the lack of definitions. Thank you, Mr. President. Thank you, Senator Mines.

SENATOR CUDABACK: Thank you, Senator Chambers and Senator Mines. Senator Dwite Pedersen.

SENATOR Dw. PEDERSEN: Thank you, Mr. Chairman, members of the Legislature. I just want to reaffirm the fact that, yes, I do accept any amendment that has to do with the liability. I have

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been in favor of both the committee's amendment and the Transportation, Telecommunications Committee amendment which was brought in by the Department of Roads. And remember that the bill says that the city or town, village, can draft the ordinance as tight as they want to, to include anything that they want to in the ordinance, and that could be also requiring the organization to carry a liability insurance. And I would be acceptable of an amendment not quite as strict as Senator Chambers was talking about, but of an amendment that says you have to stick out things like the Roads Department does now when there's construction ahead, a sign saying, posted, advance notice of activity ahead, contributions, whatever. I think that's a safety issue that I wouldn't have any problem with either, and I'm sure the people that I'm working with wouldn't have any problem with that. That would give people a leg up to what's going on ahead. You must remember again the question that Senator Combs asked me--how many people have been hurt or maimed in the 50 years they've been doing this--and there's none, to our knowledge. So these people do this very professionally, and I have no problems with tightening it down to make sure that the...that we do whatever we can to make sure that somebody doesn't get hurt and, if they do, there is liability. Thank you.

SENATOR CUDABACK: Thank you, Senator Pedersen. On with discussion. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I would like to engage in a little conversation with Senator Dwite Pedersen, if I could, please.

SENATOR CUDABACK: Senator Pedersen.

SENATOR STUTHMAN: With this bill, can local jurisdictions and municipalities develop their own rules and guidelines as to who they will allow to solicit on these streets or avenues that are a highway?

SENATOR DW. PEDERSEN: They can draft their own rules and regulations in any way, shape or form they want, yes, and as tight as they want.

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SENATOR STUTHMAN: And they would also be responsible for the liability then if they are setting up the guidelines?

SENATOR Dw. PEDERSEN: Right now, there is not a liability amendment on there, but there's talk that Senator Beutler might put it on there. I don't know if he's interested in doing that now or on Select. And Senator Chambers has talked about liability. It's not on there now, but we'd be acceptable of liability.

SENATOR STUTHMAN: Okay. The issue that I'm concerned with is in my local area there's, you know, volunteer firemen. They like to solicit some money for the muscular dystrophy. That's a good way that they can raise money. It's a charitable organization. But they are also concerned with, you know, who else is going to be coming out there and is it going to be something, you know, that is a scam. They're very much concerned about that. But, you know, realistically then, Senator Pedersen, they could, the city could, develop a strict ordinance to allow such a thing to happen.

SENATOR Dw. PEDERSEN: Yes, it can.

SENATOR STUTHMAN: So they could work with the city council and develop something that, you know, that would allow them to go on the highway. They would probably be responsible for the liability. And maybe the city council would only allow one event to take place, or more events, depending upon, you know, the jurisdiction and who would like to do such an activity. Is this the way you understand it also?

SENATOR Dw. PEDERSEN: Yes, with the...especially after talking to Senator Beutler, if they want to more clarify Section 9-504 of statute now to what is charitable, community betterment type, I have no problem with that.

SENATOR STUTHMAN: Okay. Those are some of the questions that, you know, I wanted to get answered. And, you know, realistically I think that, you know, I'm not in support of, you know, allowing, you know, anyone to come out there and try to

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solicit money or funds for something. It's probably for a project, but that project never does receive the funds; they're put in the pocket. But I think there are some...there are some worthy charitable organizations, you know, that are, you know, very good and would like to receive some funds. So, if I'm correct then with the reasoning that Senator Dwite Pedersen gave, you know, this could be allowed by a city jurisdiction. So I'll listen to the discussion and hopefully I can get some more input and all. At this time, I'll return the balance of my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Stuthman. (Visitors introduced.) On with discussion. I guess there is no discussion. Senator...I'm sorry, Senator Bourne.

SENATOR BOURNE: Thank you, Mr. President. Members, after discussing the bill...or this amendment with the introducer and the sponsors of the bill, I am going to support Senator Baker's amendment, but I am...I am very upset with the Department of Roads. I talked to Senator Pedersen, and I don't believe that I am divulging anything inappropriately, but he mentioned to me that this bill has been talked about and on queue for about two years now and he just heard of this concern from the Department of Roads about two weeks ago, and I am sick and tired of these agencies doing this at the eleventh hour. This amendment, even though I'm going to vote for it, is poorly drafted, as usual, because the Department of Roads is involved in it, but yet I feel like if we don't adopt this amendment there's not support for the bill. So my hands are tied and that really frustrates me. But I want to serve notice to the Department of Roads that their conduct here is inappropriate and I'm...and, as usual, Senator Combs, I have a long memory. And in serving with Senator Chambers on the Judiciary Committee I, unfortunately, I think I become more like him every day, which really frustrates me. (Laughter) I'm making light of this, but it's very serious. I am tired of these agencies coming out of the woodwork at the last minute and attempting to scuttle things that people have worked on for years. I am very offended and I want to put the Department of Roads on notice that I'm going to keep a real close eye on what they're doing this year. This...I'm going to support this amendment, I'm going to support

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the committee amendment, I'm going to support the bill, but I want the Department of Roads to know that this is inappropriate. It's wrong. This is the wrong way to handle this, this subterfuge, this eleventh hour stuff, throwing those amendments out at the last minute, basically Shanghai...hijacking somebody's bill. It's wrong and I'm going to let them know over the next several months that this is wrong. But as of right now, I'm going to support the amendment and I'm going to support the committee amendment, I'm going to support the bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Bourne. Senator Baker, you're recognized to close on your amendment, AM0308.

SENATOR BAKER: Thank you, Mr. President, members. I want to reiterate what the amendment does. We've had a lot of discussion outside the scope of what the amendment does. But the amendment says you can't solicit on any roadway that's part of the state highway system. You can talk to the Department of Roads all you want, Senator Bourne, but I don't, personally, I don't want solicitation on a state highway. I don't think that's something we want to subject...it's not...our citizens to. It's not good policy. So, regardless of what Roads wants to do, I have to have this amendment adopted or I go...I no longer support this bill. I just don't think it's good policy to allow solicitation on the state highway system, period. So my amendment, once again, says that this solicitation can be done, except on roadways that are part of the state highway system, and I ask for your adoption of AM0308. Thank you.

SENATOR CUDABACK: Thank you, Senator Baker. You've heard the closing on AM0308, which is an amendment to committee amendments to LB 7. The question before the body is whether that amendment should be adopted. All in favor vote aye; opposed, nay. Voting on adoption of AM0308, which is amendment to the committee amendment. Have you all voted on the question who wish to? Record please, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the adoption of Senator Baker's amendment to the committee amendments.

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SENATOR CUDABACK: The amendment is adopted. Back to discussion of the committee amendments themselves, AM0037, offered by the Urban Affairs Committee. Seeing no lights on...I'm sorry, Senator Chambers, your light is on.

SENATOR CHAMBERS: This is on the committee amendment?

SENATOR CUDABACK: It is, Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, there's a difference between what is intended that a bill do and what a bill does or actually allows. Senator Erdman and I were looking at this language and we're talking about vehicles, when stopped by traffic control devices or traffic control signals. A device, or even if you want to use...take it to the word "signal," that legitimately, pursuant to law, requires that vehicular traffic come to a stop, would be embraced in this language. Senator Erdman mentioned a situation where there might be some person stopping traffic so children can cross the street. That would qualify, the little paddle that says stop. When the arm comes out on a school bus that says stop, that could qualify and a person could follow school buses and run out there and beg. Now, maybe that would never happen, but we need to look at what is being allowed under this bill. Remember, the state is being asked to get involved in this issue and authorize this activity. The 49 of us are having something presented to us and we are to bring our collective judgment and wisdom to bear on that issue. Then, on behalf of the public at large, whom we represent, we're supposed to exercise our best judgment. If you were addressing a group of citizens, could you tell them that your considered judgment, your most prudent decision, was that the state should authorize cities to pass ordinances to allow people, to authorize people, to approach them when their vehicle is stopped at a traffic light or a stop sign to ask for money? They talk about road rage on television and on the radio. If you were in a hurry to get someplace, you still have to stop when the light is red. The person in front of you has stopped for the red light. The person in front of you is very benevolent. One of these people runs out with a bucket, says, put some money in the bucket, and the person in the car in front of you says, I only have large

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bills and I can't afford to give you all of that bill, and the bucket person says, well, I've got change. So you say...the one in the front of the car says...the car in front of you, can you change a \$20? And the person says, not only can I change a \$20, I can change your mind. They're just having a little banter back and forth, and the light changes. And they're still negotiating because this person in the car in front of you is going to give to charity. So you hit your horn and the person in the car may make a hand signal at you, not that they're going to turn their car, but to suggest a reaction to what it is you're doing. And if the person with the bucket happens to be a cop, that cop may give you a look that lets you know, hey, buddy, keep your powder dry, cool down. The state is being asked to create those situations. How much good for society...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...will result if the state, through the Legislature, enacts this bill? Senator Baker's amendment has rendered it virtually useless for the purpose of those who want the bill in Omaha. They can't go on Dodge Street, Maple, and I mentioned 30th and there are probably others that are part of the state highway system. So why even pass the bill? It probably never should have seen the light of day, but it is out here now and we have to deal with it. Even with Senator Baker's amendment, I do not think the bill is wise. I don't know if Senator Beutler is going to pursue his line of inquiry relative to definitions, but it certainly is one worthy of our consideration and discussion. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Louden, on the committee amendments.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I have some concern with this, with this amendment, when it says...I think what they're trying to do is make sure these people are over 18 years of age that are getting out on these roadways to stop cars to solicit funds. But when you finish it out there, that's devoted to charitable or community betterment purposes, why, that can be a real broad, broad scope. I think it's down in Texas I've been some places, maybe perhaps in

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Denver, you pull up to the stop sign and some guy rushes out there and tries to wash your windows and do a bunch of stuff and he expects a buck or two, and it makes you wonder whether they get run over or what they do. This has been a way that some towns have used to solicit funds for different programs they have. The volunteer firemen use it a lot out in our area, and that's fine in your smaller towns, but when you make laws like this, this covers all sizes of towns, all sizes of villages and all kinds of traffic. So I don't know if this is the best way to raise funds. I think there are better ways to doing it. Seemed like the high school kids do quite well by putting up a sign someplace and offering to wash cars in a parking lot. Perhaps there's other ways that traffic can be diverted with signs or something to safe areas where solicitations can be handled. But to put it out on roadways and in the streets, where there's traffic whizzing by, I would shudder to think that if we pass something like this and somebody got run over some time in the future, one person getting run over and injured or, worse yet, killed wouldn't be worth all of the jawboning we've done here today. So I, myself, really don't support this bill and I think I will vote no on it. And, with that, I'd return my time to Senator Chambers, if he so desires it.

SENATOR CUDABACK: Senator Chambers.

SENATOR CHAMBERS: Thank you, Senator Loudon. Mr. President, Senator Baker's amendment was added to the committee amendment. I'm going to vote for the committee amendment in order to have Senator Baker's amendment attached. Then, should the body decide--and it would be a decision I consider unwise--to pass this bill, Senator Baker's limiting amendment will be a part of it. There will be none of this taking place on state highways. Any roadway that is a part of the state highway system would be off-limits. The only way to get Senator Baker's amendment is to adopt the committee amendment. But if the committee amendment is so objectionable even with Senator Baker's amendment, and the committee amendment therefore would be rejected, I'm sure Senator Baker would then offer his amendment to the bill itself. But why chew the cud twice? The bill should not be enacted into law. But in order that we will have before us the form that the bill at this point will take, in light of the adoption of

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Senator Baker's amendment, we should go ahead and adopt the committee amendment. Then the discussion about what the word "charitable" or the term "community betterment" mean now or will mean can be discussed in the context of the form that the bill is in. So I'm going to support the committee amendment. Senator Bourne supported Senator Baker's amendment while lambasting the Department of Roads. I'm not going to lambaste the committee that sent this out here, but I am going to say, that is why we have to do all this work, but that's what we're here for.

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: We're paid to do it. There might be things we would rather give our time to, but since I'm going to be here 90 days anyway, I may as well give time to something like this. Even though the bill itself is ill-advised and ill-conceived, the issue that it deals with is very, very consequential. So I'm going to support the committee amendment. I hope enough others will so that we might adopt it. Then we ought to just dispatch the bill. That doesn't mean pass it on. It means give it a merciful death and a respectful burial. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers and Senator Loudon. Senator Smith.

SENATOR SMITH: Thank you, Mr. President and members. I wasn't going to speak on this issue, but I am wanting some clarification, if Senator Pedersen would yield to some questions for clarification.

SENATOR CUDABACK: Senator Pedersen, would you yield to a question from Senator Smith?

SENATOR DW. PEDERSEN: Senator Smith.

SENATOR SMITH: Thank you, Senator Pedersen. I'm trying to sort all this through and I missed some of the prior debate, but I just want to make sure that I understand what's going on here. A city could, on city streets, allow the solicitation of

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donations for any charitable organization, as long as they are not minors.

SENATOR Dw. PEDERSEN: That's right.

SENATOR SMITH: And what age is "minor" established?

SENATOR Dw. PEDERSEN: Eighteen.

SENATOR SMITH: Eighteen, specifically in this bill?

SENATOR Dw. PEDERSEN: Uh-huh.

SENATOR SMITH: Was that in the committee amendment or...

SENATOR Dw. PEDERSEN: That's with the amendment that was all...it was in...we already had it in part of the bill because it was amended last year.

SENATOR SMITH: Okay. And then is it up to the city to determine the charitable nature of the organization?

SENATOR Dw. PEDERSEN: No. Senator Beutler is going to offer on Select File, he came to visit with me and I have no problem with that, the...in...the Statute 9-504 already defines in statute what "community betterment" and "charitable" is, and that he wanted to put...make sure that we used that as part of the bill, and I'm okay with that.

SENATOR SMITH: Okay. So there we're going to narrow the definition then.

SENATOR Dw. PEDERSEN: Well, the definition is already narrowed. Senator Beutler is just going to write an amendment that says make sure that the Section 9-504 is part of this.

SENATOR SMITH: I see. Thank you, Senator Pedersen.

SENATOR Dw. PEDERSEN: Thank you.

SENATOR SMITH: And I have to be honest and say that I do have

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some reservations about this and...in terms of the appropriateness of a revenue generator for any organization. I know there are a lot of great organizations and I know that some would accuse me of supporting relaxation of all traffic laws, and that's certainly not the case, and so I, in the interest of public safety and other issues in the appropriateness of fund-raising, I do have reservations on that. I just wanted to submit that for the record. Thank you.

SENATOR CUDABACK: Thank you, Senator Smith. Senator Friend, you're recognized to close on the committee amendments, as Chairman of Urban Affairs Committee.

SENATOR FRIEND: Thank you, Mr. President. Only to say that I would ask for the advancement of the committee amendments and the advancement of the bill. Thank you.

SENATOR CUDABACK: Question before the body is, shall AM0037, offered by the Urban Affairs Committee, be adopted to LB 7? All in favor vote aye; opposed, nay. The question before the body is adoption of the committee amendments. Have you all voted on the question before the body who care to? Record please, Mr. Clerk.

CLERK: 30 ayes, 2 nays, Mr. President, on the adoption of committee amendments.

SENATOR CUDABACK: The committee amendments are adopted. Back to discussion of the bill itself. Senator Wehrbein.

SENATOR WEHRBEIN: Mr. President, members of the body, I still am going to oppose this bill. It has been improved to the degree that I am concerned about its passage. Sorry, Senator Pedersen, but it just doesn't seem logical to me to put people in harm's way for...regardless of the good reasons that are there for raising money. And it's making the means justify the end...or the end is justifying the means, and I am very uncomfortable doing this. We have enough serious issues in pedestrian traffic in any case in streets today, with the speed, with the running of the red lights, all these things that cause car drivers to be distracted for whatever reasons. And I will

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frankly tell you that even though I support many of these charities, driving down the street, trying to drive safely, in many cases I think I'm offended. It's an intimidating form as you drive through these, and I've only done it a couple times because I don't regularly spend my time in municipalities, but when it's done it is intimidating. If you're concentrating on what you're doing, making left turns, and many times they are in the left turn lane, as I've observed, you're trying to make a traffic light and other things and you're being distracted. It just doesn't seem feasible for the state and/or the municipalities to put themselves in a place of condoning this type of activity, and I really would urge your opposition to this bill. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. On with discussion, advancement of LB 7. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is one time Senator Baker did a good deed for the state and the people. Senator Baker, I will call the "staker," because he took a wooden stake and drove it not only into the chest and through the heart of Dracula, but out the back. This bill is dead, Senator Bourne, Senator Dwite Pedersen. And it's not that people think Senator Pedersen is not trying to do something that's of value. Nobody, I don't think, has expressed opposition to the charities that were named which might benefit. But also, there's been no delineating what constitutes "charitable." If I am poor and I do something for myself, that could be considered charity. If I need some money to repair my house, that is going to improve the appearance of the community, so it's community betterment. Anything could fit within those terms. Anybody would have to be given authorization and approval by the city or whoever is going to grant this approval. If the state passes this bill and bucks the whole thing to a city council, you don't know whether that city council's ordinance will establish a permit system where a person has to purchase a permit, have the permit in plain sight, and written on it in large enough letters to be read by people in vehicles that this person is authorized to beg, so law enforcement people will leave that individual alone. The problems that inhere in trying to have the state create a set of circumstances for a

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very small group of people, while at the same time creating problems, the nature of which cannot completely be determined, is not what we ought to do. I'm not going to support this bill. But if it moves, then at the next stage I will have some amendments, and the first one will be to place liability on the municipality that authorizes this kind of activity. We will see the kind of strength that the bill has. I doubt that it has 33 votes, and that's what you'll be looking at if this bill moves. And if an amendment is rejected that would make the municipality liable to anybody injured, whether it's the one with the bucket, somebody in a vehicle, an innocent bystander on a curb, anybody injured as a result of any of these transactions being undertaken pursuant to an ordinance enacted by a municipality will render that municipality liable, and it will be strict liability. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. On with discussion, advancement of LB 7. Senator Beutler.

SENATOR BEUTLER: Senator Pedersen, let me describe to you something that's in another statute and see if you would be amenable to this as part of a Select File amendment. You had referenced, with respect to the definition of charitable and community development purposes, 9-504, which is part of the small lotteries and raffles act, and that solves part of the problem. You know they have another provision in here, though, that partially, probably mostly resolves another aspect of this that's troublesome. Not only would the purpose have to be for charitable and community betterment purposes under this act, but it would also have to be on behalf of a qualifying nonprofit corporation. And it goes on to define those types of nonprofit corporations that would qualify as a nonprofit organization holding a certificate of exemption under Section 501 of the Internal Revenue Code, or whose major activities are conducted for charitable and community betterment purposes. That is, this is not just a single thing but this is what they do. And then it requires that the qualifying nonprofit shall have its principal place of office in the state and shall conduct a majority of its activities in Nebraska, the point being that there's some effort to describe the types of organizations that can be allowed to send out solicitors so that there's some

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reasonable basis for believing that they are a credible organization and not a scam type activity, which I know you don't want out there either, and the problem is trying to draw that line or make some definition. But what would you think about trying to parrot from or steal from Section 9-508 this definition or some similar definition so that the city had some way of making some sort of judgment about some organization that came into them and said, yeah, we're a credible organization? Can we work with something like that?

SENATOR Dw. PEDERSEN: (Microphone malfunction) Senator Beutler,...

SENATOR CUDABACK: Senator Pedersen.

SENATOR Dw. PEDERSEN: Thank you. Senator Beutler, what you're saying I think is already in statute and I have no problem with, you know, defining that more in this bill whatsoever.

SENATOR BEUTLER: Good. Okay. Thank you.

SENATOR CUDABACK: Are you through, Senator Beutler? Senator Chambers.

SENATOR CHAMBERS: (Laugh) Mr. President, poor Senator Dwite Pedersen is going to get whipsawed. I would oppose that. We're not talking about an agency being allowed to gamble or run lotteries or whatever else is being allowed in the provisions of statute Senator Beutler may have been reading from. We're talking about people being allowed to come out on the street and beg. The opposition that I had primarily to what Senator Pedersen offered the last time was that it would be restrictive and it would ban certain people while leaving the field open to others. We're just talking about begging here, pure and simple begging. Anybody should be able to come out here and beg if the state is going to authorize it. I don't know whether churches qualify. But suppose a person had a family member who died and didn't have the money to pay for the funeral and wanted to go out on the street and beg. Certainly that's a charitable purpose, but I doubt that that family or anybody connected with the effort would have gone through the trouble to leap through

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the hoops and get all these certifications that the language Senator Beutler is suggesting would require. More problems will be created. Every time an attempt is made to bring rationality to this situation, it creates other problems which did not exist before the newest amendment was offered. The problem created by Senator Beutler's amendment is that it narrows the scope and favors certain groups over all others. And if the state is going to allow begging, I say begging for everybody or begging for nobody. That's kind of a paraphrase of Patrick Henry. When Senator Pedersen first brought the bill, there was no contemplation that everybody would be allowed to beg. But if the state is going to do this, the state should not put in artificial restrictions. No cause is better or worse than any other cause. When people who are Catholics get upset with what I say about the church and these pedophile priests, when I find out the same thing is happening in other churches I go after them too. I think all these religions are hustles. They take advantage of people's ignorance and their superstition. They all low-rate women and keep them in a subordinate, subservient position. They talk one thing and do another. So when these others get as powerful as the Catholic Church and send three to five lobbyists over here out there lobbying legislation, I'll go after them as political entities as I do the church. If the church stays out of politics, I stay off the church. But when their priests turn the inner sanctum, when they turn the rectory into the "rectumry," and the rectum belongs to a little boy or little girl, then I'm on them and nobody can silence me on that. But when it comes to begging, I want all the churches to be out there able to beg, even though they have policies and practices I disagree with. I want every ragtag, bobtail, scruffy person to be able to get out there and beg with Warren Buffett, if he chooses to go out there. That is why I'm going to vote against this bill. I think Senator Beutler is overly optimistic when he says an amendment for Select File. I don't think we ought to...

SENATOR CUDABACK: One minute.

SENATOR CHAMBERS: ...send this bill on. The discussion has gone in several directions, each direction being one of consequence. If you leave it for these municipalities to define "charitable," there may be somebody, such as myself, who will

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challenge it in court as being discriminatory, and we will have the breeding of litigation. There are a lot of people who say things that I don't like, but I'm opposed to the law trying to stop them from saying it. There were some racist groups called the Posse Comitatus and others whom the Legislature was trying to bring in check by making certain group meetings and so forth against the law, and I fought and crushed that legislation, even though those groups were doing things that would be against my people. The law is the law, and...

SENATOR CUDABACK: Time.

SENATOR CHAMBERS: ...it should apply across the board. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. Seeing no further discussion, Senator Dwite Pedersen, you're recognized to close on advancement.

SENATOR Dw. PEDERSEN: Thank you, Mr. President, members of the Legislature. I want to mention, first of all, remember that they've been doing this for 50 years without any of the restrictions that we just put on there. And it's not that I don't support the restrictions, because the ones we put on there I do support. I'm willing to work with whoever has amendments for this: the liability I have no problem with; the further definition of Statute 9-504; signage, if we want to put up some signage that beware ahead. I'm sure Senator Chambers would like the word "beware," but it's whatever the type of signage that we need to put out there so people are aware of something coming up ahead. It is putting all of the responsibility onto the city. It's taking...all it does it change the state law, saying the state is not responsible for this anymore; the city, the town, the village, whoever wants to do this can draft an ordinance and they can draft it as tight as they want, to do whatever they want to take care of this. Senator Erdman came over and said he's got a bill up on the age of majority. If we need an amendment on that after his bill, I'd be more than happy to work with him on that. If it was going to be 18, it's now age of majority, 19 in the state, but trying to change it to 18, no problems at all. The Muscular Dystrophy Association has lost

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millions of dollars since we have...cities have done away with this, according to the state, because of following the state law. They and many other organizations could raise money and be safe, as they have been in the past. Firemen are in the business of safety and if they're not safe, this bill does not change that the law enforcement could still, even after they've had a permit and on the right streets and everything else, could not say they're infringing on traffic or impeding traffic or causing an unsafe situation and shut it down. I think every precaution is in here and I'm willing to work with anybody who wants to put more in here for Select File. With that, I urge you to support LB 7, and I thank you.

SENATOR CUDABACK: Thank you, Senator Pedersen. You've heard the closing on LB 7. The question is, shall LB 7 advance to E & R Initial? All in favor vote aye; opposed, nay. Question before the body is advancement of LB 7. Have you all voted on the question who care to? Senator Pedersen, for what purpose do you rise?

SENATOR Dw. PEDERSEN: Ask for a call of the house and roll call vote in regular order.

SENATOR CUDABACK: There's been a request for a call of the house. All in favor of the house going under call vote aye; those opposed, nay. Record please, Mr. Clerk.

CLERK: 29 ayes, 0 nays, Mr. President, to place the house under call.

SENATOR CUDABACK: The house is under call. All unauthorized personnel please leave the floor. Unexcused senators...I'm sorry, there are no unexcused senators, so all senators report to the Chamber, please. The house is under call. Senator Cunningham, Senator Brashear, Senator Landis. He's on his way. Thank you. Senator Raikes. Senator Schrock. Senator Kruse, Senator Burling, Senator Price. Senator Kruse, the house is under call. And Senator Cunningham and Senator Brashear. Senator Kruse. Senator Kruse. Senator Pedersen.

SENATOR Dw. PEDERSEN: You can go ahead.

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SENATOR CUDABACK: Thank you.

SENATOR Dw. PEDERSEN: Thank you.

SENATOR CUDABACK: There's been a request for a roll call vote on the question. Question is, shall LB 7 advance? Mr. Clerk, call the roll, please.

CLERK: (Roll vote taken, Legislative Journal pages 588-589.)
28 ayes, 14 nays, Mr. President, on the motion to advance the bill.

SENATOR CUDABACK: LB 7 does advance. I do raise the call. Items for the record, please, Mr. Clerk.

CLERK: Mr. President, your Committee on Government reports LB 671 to General File with amendments attached. Health and Human Services Committee reports LB 193 to General File with amendments; LB 264, LB 319, LB 604 to General File with amendments; and LB 265, LB 266, LB 613 indefinitely postponed. Banking Committee reports LB 546 to General File; those reports all signed by the respective Chairs. Enrollment and Review reports LB 533 to Select File; LB 499 and LB 150 and LB 150A and LB 503 to Select File.

A new A bill. (Read LB 71A by title for the first time.)
Hearing notices from Judiciary Committee, signed by Senator Bourne, as Chair. And I have amendments to be printed by Senator Chambers to LR 8. That's all that I had, Mr. President.
(Legislative Journal pages 589-599.)

SENATOR CUDABACK: Thank you, Mr. Clerk. We now go to LB 205. Mr. Clerk.

CLERK: LB 205, Mr. President, by Senator Engel. (Read title.)
Bill was introduced on January 7, referred to the Health Committee. Bill was advanced to General File.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Engel, you're recognized to open on LB 205.

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SENATOR ENGEL: Thank you, Mr. President. It's my pleasure to introduce LB 205. This bill deletes the statutes language concerning developmentally (sic) disability regions. Let me give you a little bit of the history. In 1991, the Legislature passed LB 830, which later became the Developmental Disabilities Act. At that time, what was the Department of Health and Human Services had two major concerns which were reflected in Section 83-1212 of our statutes. The first paragraph of Section 83-1212 states that if a region fails to meet statutory requirements for certification and accreditation, all equipment and property shall be returned to the state Department of Health and Human Services. This language was necessary when the six regions were the primary providers of day and residential services to persons with disabilities. However, since that time, many more providers have been established and the state would not have to take over services if a regional provider were to cease. The regions are now interlocal agreements that contract with the state to provide these services, and while the state provides nearly 90 percent of their operating funds, HHSS rules and regs do say the construction of buildings, or alterations or renovations of such buildings, are not...are unallowable costs as far as funds administered by HHSS. Therefore, the regions feel that the present state law would allow their buildings to also be transferred to the state even though no state money was used to purchase or renovate the real estate. Furthermore, the regions feel that as long as they are carrying out their contractual obligations, equipment and supplies, with the exception of patient records, should not revert to the state Department of HHS. The statute only mentions the six regional providers, yet the state also contracts with many private providers, and since no region has ever been disbanded due to noncompliance with Section 83-1212, LB 205 deletes the language. The second paragraph of 83-1212 states that the regions shall provide suitable office space, furniture, office equipment, and access to files and records to the department. That section of law was written at the time that DD service coordination was provided by and officed with the region. Service coordination is now provided by an office with HHS, making this section unnecessary. My office has had discussion with the Department of Health and Human Services

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Systems and they agree to support LB 205 as it was introduced and advanced by the committee. I'll be happy to answer any questions, and ask that you advance LB 205 to E & R Initial. Thank you.

SENATOR CUDABACK: Thank you, Senator Engel. You've heard the opening on LB 205. Mr. Clerk, a motion.

CLERK: Senator Engel, I had an amendment, Senator, AM0190, but I have a note you want to withdraw.

SENATOR CUDABACK: It is withdrawn.

CLERK: I have nothing further on the bill, Mr. President.

SENATOR CUDABACK: Open for discussion on advancement of LB 205. Anybody wishing to speak to the advancement? Senator Engel, there are no lights on. You're recognized to close on advancement.

SENATOR ENGEL: Thank you very much for your consideration, and I ask that you advance to E & R Initial. Thank you.

SENATOR CUDABACK: The question before the body is, shall LB 205 advance to E & R Initial? All in favor vote aye; those opposed, nay. The question before the body is advancement of LB 205 to E & R Initial. Have you all voted on the question who wish to? Record please, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB 205.

SENATOR CUDABACK: LB 205 does advance. Mr. Clerk, LB 244.

CLERK: LB 244, by Senator Byars. (Read title.) Introduced on January 10 of this year, referred to the Health and Human Services Committee. The bill was advanced to General File. I have no amendments at this time, Mr. President.

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Byars, you're recognized to open on the advancement of LB 244.

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SENATOR BYARS: Thanks, Senator Cudaback. Last year, in 2004, we adopted mandatory licensure for all occupational therapists who, prior to that time, had voluntary licensure. We worked with Health and Human Services to develop LB 941 last year; amended that into LB 1005 and passed it without any discussion. When the Health and Human Services Regulation and Licensure began the process of drafting regulations, they interpreted the bill to require regulation be in place before an occupational therapist could use physical agent modalities. Occupational therapists who had been using those modalities for a number of years would have had to had suspend this as part of the therapeutic regimen and would have been detrimental not only to their patients' care but to their practice as well. LB 244 seeks to correct that language and would grandfather in any person who, prior to July 16, 2004, was practicing, number one, as an occupational therapist and administering physical agent modalities, or an occupational therapy assistant that was setting up and implementing superficial thermal agent modalities. A very simple bill but very, very important to make certain that we continue the very important practice in occupational therapy and serve those people who have need of those services. And I would ask that you would advance LB 244.

SENATOR CUDABACK: Thank you, Senator Byars. You've heard the opening on LB 244. Open for discussion on that motion. Senator Byars, there are no senators wishing to speak. You're recognized to close. He waives closing. Question before the body is, shall LB 244 advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. Question before the body is advancement of LB 244. Have you all voted on the issue who care to? Record please, Mr. Clerk.

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB 244.

SENATOR CUDABACK: LB 244 does advance. Mr. Clerk, LB 246, when you get time.

CLERK: Mr. President, LB 246, a bill by Senator Johnson. (Read title.) Bill was introduced on January 10, referred to Health

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and Human Services Committee, advanced to General File.

SENATOR CUDABACK: Senator Johnson, you're recognized to open on LB 246.

SENATOR JOHNSON: Mr. President, members of the body, this bill was brought to me by a nursing home group that pointed out a situation in our present laws that prohibit reasonable, at least reasonable to me, use of an administrator to be the administrator for more than one nursing home. What our situation was at home with the people that brought this to me was that in the city of Kearney we have one nursing home and they are associated with a nursing home in Callaway, Nebraska, which is 65 miles away. Our laws at present state that you cannot be an administrator for a nursing home more than 10 miles away, so even though these people are located on the east side of Kearney, they could not be a co-administrator for a nursing home in Gibbon, because it's 12 miles away. In researching this, what we found is that the law was put in several years ago, I believe for a case in Hebron, but the exact area doesn't really make that much difference. What the situation was is that the nursing home...there were two nursing homes who were across the street from each other in this community and it seemed beneficial to those people at that time to have a co-administrator. So the law was put in less than ten miles, which seemed like a good amount of time at that time. However, with the advent of the Internet, e-mail, faxes, cell phones, et cetera, plus just better communication and the way we do things in general with nursing homes, this now seems to be outmoded. When I visited with the people about this, I said, show me more than just your case where this was a, you know, a hardship, and indeed they had several of the different organizations that came forward. There were none in opposition to this. What it does then is this; it changes the rules or gives the board more discretion in how they do this. What we did was to change it from ten miles, and at first we said to approximately one mile. There is an amendment that goes to what we are talking about here and the amendment is because of Dr. Raymond from Health and Human Services who said, rather than make it approximately one mile...or, excuse me, one hour, said why don't you make it two hours or less, so that is included in

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there. And the other thing is the size of the facilities and the number of facilities, so that the maximum number that one person could be...oversee as the administrator would be three or less. Now, what it does do is this; is it retains for the board to make the decision within these rules. The board still makes the decision, just with expanded rules. The head of nursing must remain at each facility. It's the administrator that can oversee more than one. The other thing that we left in this is that the administrator is, quote, fully responsible and is clearly held responsible for the administration of all of these facilities. When we look at this, I think what we are talking about is practical rural economic development, or perhaps we should be saying maintaining rural economic development. If this nursing home in Callaway, Nebraska could not get an administrator, or with having an administrator for a small nursing home you are adding so much to the per bed cost that it makes it not feasible for this nursing home to stay open, in committee hearing there were several instances of this that were brought up where this might be the case, so this is a way of maintaining these facilities but also maintaining the quality. I would ask that the body advance this bill.

SENATOR CUDABACK: Thank you, Senator Johnson. You've heard the opening. Mr. Clerk, an amendment.

CLERK: Mr. President, Senator Johnson would move to amend with AM0288. (Legislative Journal page 457.)

SENATOR CUDABACK: Senator Johnson, to open on AM0288.

SENATOR JOHNSON: Mr. President, this really gets back to what I alluded to in the opening and that is this; is that at the suggestion of Dr. Raymond that we specifically put in the bill that each administrator shall be responsible for and oversee the operation, and that this would be a maximum of the three facilities and, again, that, at his suggestion, we used up to two hours travel time. The other important thing that we've made sure that the language in this amendment was such that because the administrator might be in Kearney, for instance, with this nursing home being in Callaway, that the language is such that he still is clearly responsible for these...the

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distant nursing home.

SENATOR CUDABACK: Thank you, Senator Johnson. You've heard the opening on AM0288, which is an amendment to LB 246. Open for discussion. Senator Johnson, there are no lights on. Did you wish to close on AM0288? He waives closing. Question before the body is, shall AM0288, an amendment to LB 246, be adopted? All in favor vote aye; opposed, nay. Question before the body is adoption of AM0288, which is an amendment to LB 246. Record please, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Johnson's amendment.

SENATOR CUDABACK: The amendment has been adopted.

CLERK: I have nothing further, Mr. President.

SENATOR CUDABACK: Back to discussion of the bill itself, advancement to E & R Initial. Senator Johnson, there are no senators wishing to speak. He waives closing. The question before the body is, shall LB 246 advance to E & R Initial? All in favor of the question vote aye; those opposed, nay. Have you all voted on advancement who wish to? Record please, Mr. Clerk.

CLERK: 31 ayes, 0 nays, Mr. President, on the advancement of LB 246.

SENATOR CUDABACK: LB 246 does advance. Mr. Clerk, have items for the record or announcements?

CLERK: Mr. President, a series of name adds: Senator Price to LB 243, LB 244; and Senator Aguilar to LB 530. (Legislative Journal page 600.)

Mr. President, I have a priority motion. Senator Bourne would move to adjourn until Thursday morning, February 24, at 9:00 a.m.

SENATOR CUDABACK: Heard the motion by Senator Bourne to adjourn till Thursday morning, February 24, 9:00 a.m. All in favor of

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that motion say aye. Those opposed to the motion say nay. We are adjourned.

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